

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant,

Reg No: 2009-15438

Issue No: 3022

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 2, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 2, 2009. The Claimant appeared and testified. Jacqueline Archer, ES worker appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Claimant was a FAP recipient.
2. In approximately January, the Claimant came into the local DHS office to fill out recertification papers.

3. Claimant testified that she filled out the paperwork that was handed to her by the Department and left it in the box at the DHS office.
4. Claimant testified further that she left a note on the paperwork asking the agent to contact Claimant if anything else was needed.
5. On 1/31/09, the Department issued a negative action and closed Claimant's case for failure to fill out a DHS 1046.
6. Claimant testified that she never received any letters or phone calls indicating that she needed to fill out a DHS 1046 or that her case was in danger of a negative action.
7. Claimant contacted the Department when she did not receive food stamps in February and found out that her FAP had been cancelled.
8. Claimant reapplied for FAP on 3/3/09 and is currently receiving food assistance.
9. On April 22, 2008, the Department received the Claimant's hearing request protesting the termination of the FAP benefits. (Exhibit 3)

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp ("FS") program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department of Human Services ("DHS"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

A DHS 1046 Semi Annual Report is required at the semi annual review when clients have income to report. PAM 200. Adequate notice must be given for all changes reported on the DHS-1046. Id. at 3. Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it.

In the record presented, Claimant testified credibly that she did not receive any notice of her failure to fill out a DHS 1046. Claimant filled out all the paperwork handed to her by the Department and left a message for someone to call if there were any problems. There was no evidence presented countering Claimant's testimony. There was no evidence presented that shows that Claimant was given any additional time to produce the forms. Further, there was no indication that the Claimant had refused to cooperate with the Department. Ultimately, it is found that the Department failed to act in accordance with department policy resulting in the improper closure of the Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP case.

Accordingly, it is ORDERED:

1. The Department's negative FAP action is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete the negative action of 1/31/09 and supplement the Claimant for any lost benefits she was otherwise entitled to receive.

/s/ _____
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/14/09

Date Mailed: 04/15/09

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JV/dj

cc:

[REDACTED]