

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: 2009-16416

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 20, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on April 20, 2009. Claimant personally appeared and testified. An eligibility specialist represented the Department.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

FINDINGS OF FACT

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

- (1) Claimant was a FAP benefits recipient.
- (2) Claimant learned that the Department has started a Change Center for Wayne County. As a result, she called her eligibility specialist to ask questions about the Change Center. Claimant did not have a change to report. The eligibility specialist told Claimant to call the Change Center to get her questions answered.

- (3) A few weeks before she called the Department worker to ask about the Change Center she told the Department worker that she was looking for a job. Claimant asserted that the eligibility specialist encouraged her to seek worker if she was able to work.
- (4) Because the eligibility specialist had encouraged her to call the Change Center to get her questions answered, she did so. Claimant asserted that the Change Center would not answer her general questions because she was not reporting a change. She was told that the Change Center was only for reporting changes in a case.
- (5) Because Claimant has been hired to work 32 hours per month at an assisted living facility, she asked the Change Center to send her a form in case her work situation ever changed.
- (6) Claimant denies that she called to report a decrease in her work hours or any other change.
- (7) The Department eligibility specialist contends that Claimant called the Change Center to report a decrease in her work hours.
- (8) On December 2, 2008, in response to her call to the Change Center, the Department sent Claimant a Verification of Employment, DHS-38 form. (Exhibit 7).
- (9) When Claimant did not return verification by the December 12, 2008 deadline, her case was closed on December 12, 2008.
- (10) The Department received Claimant's hearing request on March 17, 2009. (Exhibit 9).

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Obtain verification when:

- Required by policy. PEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

If a client indicates he/she has a disability that impairs his/her ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information.

Verification is **not** required:

- When the client is clearly ineligible, or
- For excluded income and assets **unless** needed to establish the exclusion.

Types of Verification

All Programs

Use documents, collateral contacts or home calls to verify information.

A **document** is a written form of verification. It may include a photocopy, facsimile or e-mail copy if the source is identifiable.

Permanent documents must be obtained only once. Examples: birth certificate, passports, divorce papers, death notice.

Nonpermanent documents must be current. Examples: driver's license, pay stub, rent receipt, utility bill, DHS-49. (PEM 130, p. 1)

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. (PAM 105, p. 5)

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. (PAM 105, p. 5)

Under PAM 130, the Department is required to verify certain information. In this case, the Claimant did not dispute that she received the Verification of Employment, DHS-38.

Claimant contends that she asked the Change Center to send the form in case she had a change in the future. Moreover, Claimant contends that her eligibility specialist told her to call the Change Center because Claimant had questions regarding the purpose of the Change Center. In this case, the Department contends that Claimant failed to report a decrease in her earnings. The Claimant's testimony that she called the Change Center to ask questions about the center, not to report a change, is found to be credible. No witness from the Change Center participated in this hearing. Therefore, it is found that the Department failed to establish that Claimant called the Change Center to report a decrease in her earnings. Under these circumstances, it is found that the Department improperly closed Claimant's FAP case on the grounds that she called the

Change Center to report a decrease in her earnings and did not return documentation of the decrease in her earnings.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed Claimant's FAP case on the ground that she failed to report a decrease in her earnings.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to reopen her FAP case to and issue any retroactive benefits that Claimant was entitled to receive had her case not been closed.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/24/09

Date Mailed: 04/28/09

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.

TW/dj

cc:

