

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: 2009-17565
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 5, 2009
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 May 5, 2009.

ISSUE

Was the claimant's FAP allotment properly cut off for a failure to provide verifications?

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 an FAP recipient in Ingham County.
- (2) In August, 2008, claimant was due for a semi-annual contact on her FAP case.
- (3) On 8-4-08, a DHS-1046, Semi-Annual Contact Report was sent to claimant with a return due date of 9-01-08.

- (4) Claimant did not return the DHS-1046 until 9-16-08.
- (5) The DHS-1046 requested proof of all income received for the last 30 days.
- (6) Claimant reported income from household member [REDACTED], and attached two check stubs, one dated 7-3-08, and one dated 8-28-08.
- (7) These check stubs were for income derived from [REDACTED] job for the prior two weeks of each check date.
- (8) Claimant was sent a DHS-38, Employment Verification, on 9-18-08, with a due date of 9-28-08, in order to verify [REDACTED] income.
- (9) Claimant did not return the DHS-38.
- (10) Claimant's case closed on 9-30-08 for failure to return verifications.
- (11) On 11-20-08, claimant filed for hearing, alleging that she had returned the DHS-1046.

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 (DHS or department) 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).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined. PAM 210. An application is considered incomplete until it contains enough information to determine eligibility. PAM 115. Eligibility is determined through a claimant's

verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. PAM 130. All sources of income must be verified. PEM 500.

FAP Groups assigned a 24-month benefit period and FAP groups with earnings assigned a 12-month benefit period must have a mid-certification contact. The contact requirement is met by completion of a DHS-2240A, Mid-Certification Contact Notice for cases assigned a 24-month benefit period and by a DHS-1046, Semi-Annual Contact Report, for FAP cases with earnings assigned a 12-month benefit period. The semi-annual mid-certification contact must be completed by the sixth month of the benefit period and a budget completed, if applicable, to effect benefits no later than the seventh month's benefits. The contact is met by receipt of a completed DHS-1046 and required verifications from the client. PAM 210.

In the current case, the Department contends that claimant did not return required verifications, as required by the regulations, and was therefore cut-off of her benefits because the Department was unable to determine eligibility.

With regard to the FAP cut-off, PAM 210 requires a mid-certification contact. While claimant did return the correct form, she did not turn in any of the requested verifications, and was unable to provide a reason for doing so. The DHS-1046 clearly states on the form that the client must include current proof of all income the household received for the past 30 days. Claimant did not; the only proof she provided was for two weeks in June and for two weeks in August. This was clearly not sufficient to prove income, and therefore, the Department was unable to determine eligibility.

Furthermore, claimant was unable to give a satisfactory reason for not returning the employment verification form. While claimant did state that she did not receive the form, claimant was unable to prove that she did not receive the form, nor provided any proof beyond her own testimony as to having problems receiving her mail; the proper mailing and addressing of a letter creates a presumption of receipt, which the claimant did not rebut. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

However, as was argued by the Department, claimant was clearly receiving some forms, and claimant had a pattern of returning wrong and incomplete information; this strikes against claimant's credibility. It was also argued that the Employment Verification form was sent as a courtesy; claimant had already returned incomplete information, even though she was clearly instructed as to what she needed to provide, and the Department did not need to request further clarification.

While the undersigned disagrees that the Department could have chosen not to send the Employment Verification, given the length of time before the negative action date, it is true that the claimant has provided no proof that she had trouble receiving her mail, and that the claimant's pattern of returning incorrect information lends credence to the Department's argument that claimant received the form.

Regardless, it is indisputable that the claimant was clearly instructed as to providing verifications. Claimant did not. Therefore, the Department was correct in its determination that claimants FAP case should close.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to cut off claimant's FAP allotment was correct.

Accordingly, the Department's decision in the above-stated matter is, hereby,
AFFIRMED.

/s/

Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 15, 2009

Date Mailed: May 15, 2009

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.

RJC/cv

cc:

