

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: 2009-22144

Issue No: 3022

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 29, 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 hearing was conducted in Detroit, Michigan on June 29, 2009. The Claimant appeared and testified. Titicia Rosen, FIM, appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case on 3/31/09 for 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. The Claimant was a FAP recipient.
2. The Department indicated that a semi annual review was scheduled and verifications from the Claimant would have been due 3/1/09.
3. The Claimant testified that she did not receive notice of the semi annual review.

4. The Department indicated that a notice would have been generated from Lansing, but did not produce any evidence that a re-determination packet was mailed to Claimant.
5. Claimant's FAP benefits were terminated on 3/31/09.
6. The Claimant testified that once she realized her FAP benefits were terminated, she contacted her caseworker who instructed Claimant to bring in all her verifications.
7. Claimant testified that she then brought in all the paperwork requested by her caseworker, had the receptionist copy the documents, signed in on the log and then turned in her copies in the drop box.
8. Claimant further testified that during further conversations with the Department caseworker, Claimant learned that her paperwork had been misplaced.
9. The Department failed to present testimony from any parties familiar with the facts of the case.
10. Claimant reapplied for FAP benefits on 5/5/09. FAP was issued to Claimant on 5/8/09.
11. On May 14, 2009, the Department received the Claimant's hearing request protesting the closure of the FAP benefits on 3/31/09.

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”).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

In this case, the Department indicated that it is relying on PAM 200 which indicates that groups assigned to the simplified reporting category must be given a DHS-266, Food Assistance Simplified Reporting Requirements form at application and re-determination. There is no requirement in the regulations that the Claimant’s verifications be provided only on a DHS 266.

In the record presented, the Department presented insufficient evidence to uphold its actions. The Department failed to provide any evidence that a recertification packet was mailed to the Claimant. The Administrative Law Judge further finds credible Claimant’s testimony that she did not receive a recertification packet in the mail. Claimant did not refuse to provide information to the Department. Claimant testified that she brought in the information and was talking to her caseworker about what had happened to the paperwork. Based on the PAM 130, p.

4, Claimant should have been given at least one extension to provide the verification which was not done.

Based on the foregoing facts and relevant law, the undersigned finds that the Department improperly closed the Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds as followed:

It is ORDERED that:

1. The Department's termination of FAP benefits effective 3/31/09 is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete any negative action associated with the 3/31/09 date, 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: 07/08/09

Date Mailed: 07/08/09

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:

