

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.: 2009-22327
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 3, 2009
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on August 3, 2009. The Claimant personally appeared and testified.

ISSUE

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

FINDINGS OF FACT

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

1. On May 13, 2009, the Department closed the Claimant's FAP for lack of verification.
2. On May 7, 2009, the Claimant filed a request for a hearing.

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).

In the instant case, the Department requested various pieces of documentation of the claimant's income. The department was provided a number of check stubs but none for the month of February.

The claimant testified that he requested assistance from the department before the closure of his FAP.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see "[Timeliness Standards](#)" in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification....

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. (PAM 130, p. 2-3).

Here, the department testified that it had contacted the employer but had been unable to secure the information it sought. I find that the Department did not offer assistance to the Claimant contrary to the policy cited above.

In addition, the department closed the claimant's FAP after it received a request for a hearing.

Timely Hearing Request

All Programs

A hearing request is considered timely if it is received anywhere in the department:

Within the pending negative action period.

Within eleven days of the effective date of an immediate negative action (i.e., with adequate notice). When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday.

Prior to the effective date of an automatic MA or AMP termination. The effective date on the DHS-1605 is the MA end date on CIMS (negative action code 095).

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, do one of the following that applies to the case.

Delete the pending negative action.

Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action. (PAM 600, p. 17).

The department erred when it closed the claimant's FAP on May 13, 2009, when it had already received a hearing request prior to closing the claimant's FAP.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to retroactively reinstate the Claimant's FAP and provide the assistance necessary to complete the verifications needed. The Department will replace any lost benefits if applicable.

/s/

Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

2009-22327/MJB

Date Signed: 08/12/09

Date Mailed: 08/12/09

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.

MJB/jlg

cc:

A large black rectangular redaction box covering several lines of text in the 'cc:' field.