

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: 2009-22664

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 3, 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 has conducted from Detroit, Michigan on August 3, 2009. The Claimant appeared and testified. Shelley Carter, FIM and Jennifer Rogers, ES appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP benefits based on change in employment status?

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. A FAP re-determination interview was scheduled for 3/27/09. Claimant filled out an application indicating that he was working full time. (Exhibit 1, pp. 1-15). Claimant provided pay stubs from 3/6/09 and 3/13/09. (Exhibit 1, pp. 22-23).

3. Claimant testified that he was laid off from his job the following Monday, [REDACTED]. Claimant further testified that he contacted the Change Center to report his change in income, but they would not accept this type of change and directed him to call the Department directly. Claimant testified that he called and left a message with his caseworker.
4. A Verification of employment signed by the employer on [REDACTED] indicated that Claimant was working there since 4/23/07. (Exhibit 1, p. 20-21).
5. On [REDACTED] the Department contacted Claimant's employer and discovered that Claimant was no longer employed and "hasn't been for a while." (Exhibit 1, p. 16).
6. On 4/30/09, the Department closed Claimant's FAP case.
7. On May 14, 2009, the Department received the Claimant's hearing request protesting the termination of the FAP benefits.
8. On May 14, 2009, the Claimant reapplied and was awarded FAP benefits.

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 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. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the best available information should be used. If no evidence is available, the Department should use its best judgment. PAM 130, p. 3. Before determining eligibility, the Department should give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

Clients are required to report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days after the client is aware of them. These include but are not limited to, changes in"

- Persons in the home
- Marital Status
- Address and shelter cost changes that result from the move.
- Vehicles
- Assets
- Child support expenses pain
- Health or hospital coverage and premiums
- Day care needs or providers.

PAM 105, pp. 7-8. Caseworkers are required to explain reporting requirements to clients at application, re-determination and when discussing changes in circumstances. Changes may be reported in person, by mail or by telephone. A DHS 2240, Change Report Form, may be used by clients to reports changes, but it is not mandatory. PAM 105 at 8.

In the record presented, Claimant testified credibly that he filled out an application and signed it on 3/27/09 indicating that he was working and that he was then laid off the next Monday. Claimant presented pay stubs supporting the fact that he was working just weeks before. Furthermore, his employer signed a verification on [REDACTED] indicating that Claimant was working in March. While the Department spoke with the employer at the end of April and the employer reported that Claimant had not been working there for awhile, that is entirely consistent with Claimant's testimony. Furthermore, Claimant testified that he attempted to report the change in income by leaving a message on his case worker's answering machine. Rather than stop benefits, the Department should have given Claimant an opportunity to explain the discrepancy between his reported income and his employer statement. A simple phone call to the Claimant could have resolved this entire issue.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

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 any negative action associated with the 4/30/09 FAP closure and supplement the Claimant for any lost benefits he was otherwise entitled to receive.

/s/

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

Date Signed: 08/31/09

Date Mailed: 08/31/09

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]