

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: 2009-25145
Issue No: 1005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 14, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on July 14, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits in May, 2009?

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 FIP and FAP recipient when the department received notice from Jobs, Education and Training (JET) program staff that the father of her children [REDACTED], was being placed in triage as he claims to have employment and then lost job on April 21, 2009. (Department's Exhibit 1).

2. As neither the claimant or ██████ had reported he was employed, department mailed a Verification Checklist to the claimant on April 28, 2009 giving her until May 8, 2009 to provide loss of employment verification for ██████ by returning either employment records, employer statement, or DHS-38, Verification of Employment form. Department also requested missing pay period amounts. (Department's Exhibit 3).

3. A triage was held on May 7, 2009 and ██████ was given good cause for losing his job as he claimed he had difficulties with transportation. ██████ however did not provide any of the requested income verification at that time.

4. On May 12, 2009, department mailed the claimant a negative action notice telling her that her FIP and FAP benefits will terminate on May 26, 2009, due to her failure to provide requested verification of ██████ employment income.

5. Claimant requested a hearing on May 18, 2009, using part of the negative action notice (date of May 12, 2009, in the upper left hand corner of the notice) to request this hearing. Department deleted proposed negative FIP and FAP actions pending the outcome of this hearing.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

Departmental policy states:

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 the necessary forms. PAM, Item 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, Item 105, p. 5.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

Income reporting requirements are limited to the following:

- . Earned income
 - .. Starting or stopping employment
 - .. Changing employers
 - .. Change in rate of pay
 - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month
- . Unearned income
 - .. Starting or stopping a source of unearned income
 - .. Change in gross monthly income of more than \$50 since the last reported change. PAM, Item 105, p. 7.

VERIFICATION AND COLLATERAL CONTACTS

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. PAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

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. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM, Item 130, p. 4.

Department was required to verify [REDACTED] income in order to determine continuous eligibility for FIP and FAP and also any amount of income he may have received that was not previously budgeted. Department mailed the claimant DHS-3503 on April 28, 2009, giving until May 8, 2009, 10 days required by policy, for [REDACTED] income information to be provided. Claimant states she did not receive this form as she had some problems with the mail. No mail had been returned to the DHS local office according to hearing testimony of departmental representatives. [REDACTED] appeared for triage on May 7, 2009 at which he was made aware of the need to verify stopped income. On May 12, 2009 department mailed the claimant a negative action notice telling her that her FIP and FAP benefits will terminate due to failure to provide

verification of income. Claimant did receive this notice as she used the hearing attachment to request this hearing, and was therefore aware since at least middle of May, 2009 what department needed in order for her FIP and FAP benefits to continue. Claimant was then sent the Hearing Summary prepared on May 21, 2009, that clearly explains that she failed to provide verification of [REDACTED] income. Claimant still does not have this verification as of the date of the hearing. The only conclusion that can be reached is that the department correctly took action to terminate claimant's FIP and FAP benefits, as she had sufficient notice and more than enough time to provide requested information needed to continue such benefits, but refused to do so for reasons that cannot be explained by her or discerned by this Administrative Law Judge.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FIP and FAP benefits in May, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 21, 2009

Date Mailed: July 21, 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.

IR

cc:

[REDACTED]