

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.: 2009-28329

Issue No.: 3019

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

August 6, 2009

Wayne County DHS (73)

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 was conducted from Detroit, Michigan on August 6, 2009. The Claimant appeared and testified. [REDACTED], FIS appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case on 5/30/09?

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 an active FAP recipient scheduled for a six month review.
2. The Department indicated that a Semi Annual Contact Report was mailed to the client with a due date of 5/22/09. The mailed form was not contained in the hearing packet.
3. Claimant testified that he never received the Semi Annual Contact Report.

4. Claimant testified that the first thing he received was a notice from the Department indicating that his case would be closed.
5. Claimant then reported to the local district office and filled out a Semi-Annual Contact Report. (Exhibit 1). Claimant further testified that he submitted one pay stub.
6. The Department received the Semi-Annual Contact Report date stamped on 5/22/09 but denies receiving any pay stubs.
7. The Department closed Claimant's FAP case on May 31, 2009. (Exhibit 2).
8. On June 13, 2009 the Department received the Claimant's hearing request protesting the closure of the 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").

A group's earned income is considered in the award of benefits. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. PAM 500 at p. 1.

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 the record presented, Claimant testified credibly that he never received the Semi-Annual Contact Report in the mail. Rather, Claimant testified that the first thing he received was the notice of case closure which prompted him to appear in person at the local office to resolve the issue. (Exhibit 2) This logically follows as the notice is dated 5/8/09 and Claimant appeared at the local office on 5/22/09. Once Claimant appeared, he filled out the paperwork provided to him and also left a copy of his pay stub. Even if the Department never received any pay stubs from the Claimant, he was working for the same employer. The Department could have given Claimant an extension to obtain the rest of the information, called the employer or even sent out a verification form to the employer. Furthermore, the Department could have proceeded with the best information available rather than just Close the Claimant's case. Claimant did not refuse to comply; he just did not provide enough information.

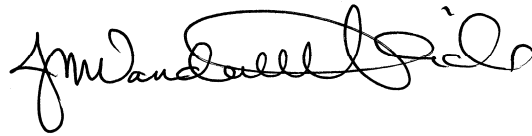
Based upon the foregoing facts and relevant law, it is found that there is no indication that the Claimant failed to comply with reporting earned income. Ultimately, it is found that the Department improperly closed the Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP case.

Accordingly it is ORDERED:

1. The Department's 5/31/09 FAP closure is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete any negative action and supplement the Claimant for any lost benefits he was otherwise entitled to receive.



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

Date Signed: 09/24/09

Date Mailed: 09/24/09

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/jlg

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