

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: 2009-36868
Issue No: 2006, 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 22, 2009
Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 October 22, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits for failure to return the required verifications in July, 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. The claimant's FAP and MA case came due for a Semi-Annual Contact in July, 2009. The claimant was mailed the Semi-Annual Contact Report (DHS-1046) on June 1, 2009, requiring the completed form and verifications to be returned to the department by July 1, 2009. (Department Exhibit 2).

2. The claimant returned the completed Semi-Annual Contact Report on July 29, 2009. The claimant also submitted some information from her employer that only gave the year-to-date totals of pay and hours. (Department Exhibit 2 – 3).

3. On August 6, 2009, the claimant telephoned the caseworker and asked why she wasn't getting FAP benefits. The caseworker informed the claimant she hadn't turned in 30 days of paycheck stubs and did not verify termination of her previous job. (Department Exhibit 4).

4. On August 10, 2009, the department received a letter from the claimant indicating that her previous employer, [REDACTED] still had her on their payroll, but she wasn't working for them since February and that she would have them fax something indicating she was no longer working for them. (Department Exhibit 5).

5. On August 10, 2009, the claimant also submitted eight weeks of paychecks stubs from her current employer, [REDACTED] Department Exhibit 6 – 9).

6. On August 11, 2009, the department received a fax from the claimant's previous employer that indicated she had terminated her employment with them on February 21, 2009. (Department Exhibit 10).

7. On August 17, 2009, the claimant left a message for her caseworker that indicated she still hadn't received her food benefits as she had now turned in her pay stubs and had her previous employer fax the termination of employment information. The case worker called the claimant on August 18, 2009, and informed the claimant that she needed to re-apply for FAP benefits. (Department Exhibit 11).

8. On August 26, 2009, the claimant again left a message for her caseworker questioning why she didn't have FAP benefits. (Department Exhibit 12).

9. On August 27, 2009, the department caseworker mailed the claimant a new Assistance Application with instructions that she needed to reapply. (Department Exhibit 13).

10. The claimant and her son never lost Medical Assistance (MA) benefits.

(Department Exhibit 14).

11. The claimant submitted a hearing request on September 1, 2009.

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 (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).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department 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.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9. 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.

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

The claimant testified that she did not receive the initial Semi-Annual Contact Report.

The department representative testified that she did have the Semi-Annual Contact Report reprinted and mailed to the claimant. Clearly, the claimant received this form as she completed it and returned it to the department on July 29, 2009. The Semi-Annual Contact Report clearly indicates what verifications are required. The initial paragraph states that the claimant must return the form with proof of income and expenses and that if the claimant does not return the form and all required proofs that her benefits would be closed on July 31, 2009. Further, the form states in section 4, that the claimant **must** include current proof of all income in the household received for the past 30 days, e.g. pay check stubs (See Exhibit 2).

The claimant admits that she may have forgotten the paycheck stubs. What the claimant did provide was a year-to-date total of pay and hours, but no breakdown as to individual pay periods, which made it impossible for the department to determine or average how much she was paid per pay period. The claimant had also never reported she ended her job with Serv-U-Success.

Department policy requires the claimant to cooperate with the local office in determining initial and ongoing eligibility. PAM 105. Department policy indicates clients must take actions within their ability to obtain verifications. PAM 105. In this case, the Semi-Annual Contact Report clearly indicates the claimant was responsible to provide 30 days of paycheck stubs to the department. The claimant did not provide the paycheck stubs until August 10, 2009, after the claimant's FAP case had been placed into closure.

Department documentation does indicate the claimant was informed her case had closed because she had not submitted paycheck stubs and verification of the end of her previous employment. Further, department documentation also establishes that the claimant was informed that she would have to reapply for benefits and was even mailed a new application on August 27, 2009. The claimant did reapply for benefits in September, 2009.

It is noted that although the claimant submitted a hearing request on MA and FAP, the MA case for the claimant and her child did not close. Thus, there was no negative action on the MA case and no hearing issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly terminated the claimant's FAP benefits because the claimant did not provide all the required verifications at her Semi-Annual Contact review in July, 2009.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 1, 2010

Date Mailed: February 3, 2010

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.

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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.

SLK [REDACTED]

cc:

[REDACTED]