

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: 2009-36970

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 22, 2009

Mecosta County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 conference hearing was held on October 22, 2009. Claimant appeared and testified. Pam Lewis, FIM, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close claimant's Food Assistance Program (FAP) benefits for failure to cooperate in determining ongoing eligibility?

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 an ongoing recipient of FAP benefits.
- (2) The department has been unable to obtain documentation for this case due to the change in computer systems.

(3) The department testified claimant's FAP case was due for review in April 2009 and under the old computer system a specific review form for FAP benefits would have been sent from Lansing to the claimant for her to complete and return.

(4) The department received review forms for Medicaid and the Medicare Cost Sharing program from claimant.

(5) The department closed the FAP benefits effective June 1, 2009 because no review form for this program was returned by claimant.

(6) Claimant filed a hearing request to contest the FAP closure on September 10, 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manuals.

Under BAM 105, clients must cooperate with the local office in determining initial and ongoing eligibility. The department is to request verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130. The department is to allow 10 days to provide the verification requested and a negative action notice is to be sent 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. BAM 130. Clients must also report changes, including changes of employment and income, within 10 days. BAM 105.

In the present case, the department has not presented any evidence that a review form was ever sent to claimant for her FAP re-determination. Claimant testified she did receive, complete and return a review packet. However the department testified this was for Medicaid and the Medicare Cost Savings Program, not her FAP benefit case. The department further testified that a separate review form would have been sent to claimant from Lansing under the old computer system regarding the FAP re-determination, but they no longer have access to the old system to show when this form was sent. Claimant testified she never received an additional review for regarding her FAP benefits.

Based upon the foregoing facts and relevant law, it is found that the department had not provided any proof that a review form was sent to claimant regarding the FAP re-determination. Claimant did complete and return the review forms she received for Medicaid and the Medicare Cost Savings Program and credibly testified she did not receive any separate form from the department regarding her FAP benefits. Therefore, the department erred in closing the FAP benefits effective June 1, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not provided any evidence claimant was mailed a review form for the FAP re-determination.

Accordingly, the department's FAP determination is REVERSED. Therefore, it is ORDERED that the department reinstate claimant's FAP benefits retroactive to the June 1, 2009 closure and award benefits to claimant in accordance with this decision.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director

Department of Human Services

Date Signed: October 26, 2009

Date Mailed: October 27, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

CL/cv

cc:

