



STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant,

Reg No: 2010-14877
Issue No: 3019
Case No: 
Load No: 
Hearing Date:
February 11, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 received by the Department on November 19, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on February 11, 2010. The Claimant appeared and testified on her own behalf. The Department's representative also appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case due to Claimant's failure to return self employment income verification?

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 filed an application with the DHS for Food Assistance ("FAP"), Medical Assistance ("MA") and State Emergency Relief, ("SER") on October 22, 2009. Exhibit 3

2. In the Application for Benefits, the Claimant listed her mailing address as [REDACTED]
[REDACTED]. Exhibit 3, pg. 2
3. The Department mailed a Verification Checklist to the Claimant on October 22, 2009. Exhibit 2.
4. The Verification Checklist requested that the Claimant provide proof of income earned through self employment.
5. The Claimant did not receive the Verification Checklist.
6. The Claimant's FAP group is composed of one member.
7. On November 9, 2009, the Department sent a Notice of Case Action to the Claimant denying the Claimant's application for benefits for failure to provide verification information within the specified time. Exhibit 1
8. On November 19, 2009, the Department received the Claimant's Request for Hearing which protested the Department's denial of the Claimant's FAP application.

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) 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 Bridges Reference Tables (BRT).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The 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. BAM 130, p.4; BEM 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. BAM 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. BAM 130, p. 6.

The Department is required to verify income at application and when a change is reported. BEM 554, p. 11.

In this case, the Department mailed out a verification checklist requesting that the Claimant provide the Department with information to establish her self employment income. The Claimant did not respond because she did not receive the verification checklist. Mail which is properly addressed and mailed is presumed to be received; however, the address used by the Department was incorrect and not properly addressed. The Claimant lives in a trailer park and her mail is delivered to a box provided by the trailer park.

The Department sent the verification letter to the Claimant at TRLR [REDACTED] instead of Box [REDACTED] as listed by the Claimant on her application for benefits. The Claimant also credibly testified that she had been having trouble with her mail and had failed to receive other mail. Under these circumstances, it is found that the claimant did not receive the Verification Checklist and the Department should not have denied the Claimant's application for benefits. The undersigned finds that Claimant did not refuse to provide requested information. Furthermore, it was not Claimant's fault that she did not receive the income verification request.

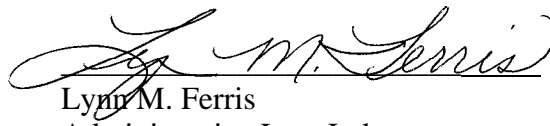
Based upon the foregoing facts and relevant law, it is found that the Department's decision to deny the Claimant's FAP application for benefits is REVERSED for the reason that the Claimant did not receive the verification checklist.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did not support the decision of the Department to deny the Claimant's application for FAP for failure to provide verification of income. Therefore, the Department's decision must be REVERSED for the reason that Claimant did not receive the request for verification.

Accordingly, it is ORDERED:

1. The Department's determination to deny the Claimant's application for FAP benefits is REVERSED.
2. It is further ORDERED that Claimant's application for FAP benefits shall be reinstated as of the date of the application, October 22, 2009.
3. It is further ORDERED that the Department shall initiate steps necessary to review the application and to determine if the Claimant is eligible for FAP benefits and to seek further verifications, if any, that are necessary.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/24/10

Date Mailed: 03/26/10

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.

LMF/dj

cc:

