

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: 2010-16295
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 9, 2010
Jackson 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 March 9, 2010. The claimant personally appeared and provided testimony, along with her husband, [REDACTED].

ISSUE

Did the department properly terminate the claimant's Family Assistance Program (FAP) benefits for failure to return the required verification materials in December, 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 case came due for a Semi-Annual review in January, 2009. The claimant returned the completed Semi-Annual Contact Report (DHS-1046) on December 16, 2009. On this form, the claimant did not indicate that her husband was receiving any income from his employment with Schwann's. (Department Exhibit 12 – 13).

2. The department mailed the claimant a Verification of Employment (DHS-38) on December 17, 2009, which was due to be completed and returned to the department by December 28, 2009. (Department Exhibit 9 – 10).

3. The claimant did not return the completed Verification of Employment form and the department put the claimant's FAP case into closure effective January 1, 2010. The claimant was mailed the Notice of Case Action (DHS-1605) on December 29, 2009. (Department Exhibit 5 – 8).

4. The claimant submitted a hearing request on January 11, 2010.

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).

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.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

The claimant testified that she did receive the Verification of Employment (DHS-38) that was mailed to her husband to have completed by his employer. The claimant explained that she did not check her mail from December 17 through December 24, 2009, so she didn't receive the Verification of Employment until December 24, 2009. The claimant further testified that she called her case worker, Matt Willis on December 24, 2009 (although the claimant later stated it may have been December 23, 2009) and asked him if she needed to send the form to the corporate headquarters in Minnesota or if her husband's local manager could complete the form. The claimant indicated that she did not receive any telephone call back from the case worker and did not return the form.

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105. Policy also states claimants are to be allowed ten calendar days to provide the verification requested. BAM 130. The time limit can be extended by the department if the claimant is having trouble getting the verification and requests additional time from the department. BAM 130.

The claimant testified that she called her case worker on either December 23 or December 24, 2009, to voice her concerns over getting the form in timely and to ask if she should send the form to the main office in Minnesota or have her husband's manager complete the form. As the claimant's case worker was not in the hearing, this Administrative Law judge left the record open to allow Mr. Willis to submit his telephone logs to determine if the claimant had called to request assistance and/or additional time.

In reviewing the telephone logs submitted by Mr. Willis, neither [REDACTED] called Mr. Willis on either December 23 or 24, 2009. Mr. Willis reviewed his case logs and checked for calls from either [REDACTED]. There were no calls from [REDACTED] [REDACTED] called the case worker on only the following dates: October 20, 2009; November 9, 2009; November 24, 2009; and January 21, 2010. Mr. Willis even provided copies of his telephone logs showing only these calls. Thus, it does not appear that the claimant called to request additional time or assistance in completing the verification.

Department policy requires the department to send a negative action notice when the time period given to provide the verification has elapsed and the client has not made a reasonable effort to provide it. BAM 130. In this case, there was no indication that the claimant informed the department that she needed extra time to have the form completed. Thus, the department took the action directed by policy in terminating the claimant's FAP benefits.

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 claimants FAP benefits because the required verification was not returned.

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: March 30, 2010

Date Mailed: March 31, 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.

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 

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