

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: 2010-17860
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 10, 2010
Montcalm County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 March 10, 2010.

ISSUE

Whether the Department of Human Services (Department) properly terminated Claimant's Food Assistance Program (FAP) case based upon his failure to cooperate with the Department in providing requested 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) Claimant was a FAP recipient.
- (2) On November 9, 2009, the Department received Claimant's Semi-Annual Contact Report (DHS-1046). (Department Exhibit 1)

(3) Claimant reported self-employment income on the Semi-Annual Contact Report and noted “See Profit/Loss Statement.” (Department Exhibit 1)

(4) Claimant attempted to contact his caseworker on numerous occasions between November 9, 2009 and November 24, 2009, for assistance in providing verification documents for this Semi-Annual Contact Report.

(5) On November 24, 2009, the Department sent Claimant a Notice of Case Action, informing him that his FAP benefits were closed because he failed to verify or allow the Department to verify necessary information. (Department Exhibit 1)

(6) On December 3, 2009, the Department received Claimant’s hearing request, protesting the termination of FAP benefits.

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 Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation of other evidence to establish the accuracy of the client’s verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required

as local office option or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. The Department uses documents, collateral contact, and home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2.

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 130, p. 4. A negative action should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 4.

Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. BAM 130, p. 6. Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. BAM 600, p. 11.

In this case, based on the testimony and documentation offered at the hearing, I find that Claimant made a reasonable effort in providing the Department with the requested verification. Claimant completed and returned a Semi-Annual Contact Report on which he reported both his self-employment income and his wife's earned income. The Department testified that there were no verification documents for Claimant's income attached to this form, but that verification documents for Claimant's wife were attached. Claimant noted on the Semi-Annual Contact Report, "See Profit/Loss Statement," suggesting at a minimum his intent to attach the necessary

verification. Claimant testified that documentation of his self-employment income could have been provided at any time since their source is his own business records. Claimant testified that he made numerous telephone calls to his caseworker requesting assistance in receiving benefits. There is no evidence that the Department notified the Claimant that his verification documents were insufficient prior to closing the case or that any assistance in providing documents was provided. This Administrative Law Judge does not find that the Department established that it acted in accordance with policy in terminating Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides claimant cooperated with the department in providing verification needed to determine his eligibility for FAP benefits.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Continue processing Claimant's Semi-Annual Contact Report dated 12/3/09.
2. Provide Claimant with notice of any verification documents not already in the Department's possession that are necessary to determine Claimant's eligibility for FAP benefits.
3. Redetermine Claimant's eligibility for FAP benefits as of 1/1/2010.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 22, 2010

Date Mailed: March 23, 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.

KS/vmc

cc:

