

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: 2010-20254
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 11, 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 11, 2010. 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 redetermination materials in January, 2010?

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 case came due for a redetermination during the month of December, 2009. (Department Exhibit 9).
2. The claimant was mailed a Redetermination form (DHS-1010) on November 16, 2009, scheduling a telephone interview for December 14, 2009 and requiring the

claimant to complete the Redetermination form and return it with the necessary proofs by December 14, 2009. (Department Exhibit 8 - 12).

3. The claimant submitted the completed Redetermination form on December 9, 2009, but did not include paycheck stubs as required. (Department Exhibit 9 – 12).

4. The department worker called the claimant for the telephone, but the claimant did not answer the telephone call. The worker left the claimant a message that indicated she had called for the interview and that the claimant had not submitted paycheck stubs. (Department Exhibit 8).

5. On December 14, 2009, the department mailed the claimant a Notice of Missed Interview (DHS-254) indicating that the claimant needed to reschedule the interview prior to December 31, 2009 or his case would be closed. (Department Exhibit 7).

6. The claimant was mailed a Notice of Case Action (DHS-1605) on December 31, 2009, informing him that his FAP case was closing effective January 1, 2010. (Department Exhibit 3 – 6).

7. The claimant submitted a hearing request on February 3, 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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. BAM, 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. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, 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. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, 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. BAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, 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. BAM, 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. BAM, Item 130, p. 4.

The claimant testified that he did receive the redetermination materials for his annual redetermination for his FAP benefits. The Redetermination form clearly indicates that the claimant must send proof of all income for the last 30 days. However, the claimant failed to return any paycheck stubs as required.

The claimant also admits that he received the redetermination telephone interview notice. This notice required the claimant to participate in a telephone interview and indicates that failure to do so may result in cancellation of his benefits. The claimant testified that he did receive a call from the DHS case worker at the appointed interview date/time. However, he testified that he was working and unable to answer the telephone call. The claimant testified that he called back later, but the worker was already gone.

The claimant testified that he was waiting to hear from the case worker before he rescheduled the telephone interview and turned in the paycheck stubs. However, the claimant was to have turned in the paycheck stubs with his Redetermination. This is clearly stated on the form that he completed and returned on December 9, 2009. Further, the case worker again reminded the claimant that he needed to turn in the paycheck stubs when she called for the telephone interview and left a voicemail message. The claimant admitted that he did not send in his paycheck stubs as required.

Further, the claimant was under the obligation to participate in the telephone interview. The notice of the telephone interview was mailed to the claimant on November 16, 2009. The telephone interview was not scheduled until December 14, 2009. Thus, the claimant had plenty of time to arrange to be available for the interview. The claimant testified that he was at work and couldn't answer the phone. However, it seems that the claimant could have spoken with his employer before the interview date/time and requested to be able to participate in a short telephone interview.

Further, once the claimant missed the interview, he was obligated to call to reschedule it prior to the case closure. The claimant was even mailed a Notice of Missed Interview on December 14, 2009, informing him he must reschedule the interview prior to December 31, 2009. Although the claimant testified that he did call the worker back, there is no documentation indicating any telephone calls were received by the department to reschedule the interview.

The claimant failed to submit the required verifications for his redetermination. Nor did the claimant participate in the required telephone interview. Department policy does require an interview for FAP redeterminations. BAM 210. The claimant is required to comply with the

department in providing the verification materials necessary to allow the department to determine initial or ongoing eligibility. BAM 105. In this case, the claimant failed to return the paycheck stubs to allow the department to budget his case and failed to participate in the telephone interview. Department policy indicates that if a client does not complete the Redetermination process, the department must allow the benefit period to expire. Thus, the department properly allowed the claimant's FAP benefits to expire when the redetermination process was not completed by the claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly allowed the claimant's FAP benefits to expire because the claimant had not participated in a telephone interview and did not return the required verifications for his redetermination.

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: April 7, 2010

Date Mailed: April 15, 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.

2010-20254/SLK

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]