

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: 2010-24388
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 1, 2010
Washtenaw 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 April 1, 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 verifications 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 began receiving unemployment compensation benefits (UCB) in December, 2009. (Department Exhibit 11 – 15).
2. The claimant was still employed with [REDACTED] [REDACTED]. (Department Exhibit 16).

3. The department budgeted the claimant's UCB and employment income, which caused her to be excess income to receive FAP benefits. The claimant was mailed a Notice of Case Action (DHS-1605) notifying her of this on January 7, 2010. (Department Exhibit 6 – 10).

4. On February 4, 2010, the department worker had a telephone call with the claimant. The claimant was requesting to know why her FAP benefits closed. The department worker informed her that the department had not received any information showing a job stop. The claimant was given until February 12, 2010 to provide the information to the department and the case would not close. (Department Exhibit 5).

5. The claimant did not provide the additional information and the case closure took effect. (Department Exhibit 5).

6. The claimant re-applied for FAP benefits on February 23, 2010 and submitted a statement from her employer indicating that she doesn't have a set schedule and a time sheet from the employer. (Department Exhibit 1 – 3).

7. The claimant submitted a hearing request on February 23, 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.

Department policy requires clients to report all changes within ten days. PAM 105. This would include stopping/starting sources of income and any changes in the amount of income received. The claimant testified that she was working less hours for Whitehall of Ann Arbor Healthcare and began to receive underemployment. The claimant testified that she thought her employer had faxed information regarding her change in hours to the department.

The claimant did admit that the department told her on February 4, 2010, that they needed information from her employer about her new hours. The claimant was advised to have the information to the department by February 12, 2010 and the claimant's case would not be closed. The claimant testified that she told her employer and they re-faxed the information an

additional one or two times. However, the department did not ever receive this information (until the claimant re-applied for benefits on February 23, 2010). If the claimant's employer had faxed the material three times or more, it is hard to believe that the department would have lost each of the faxes. This Administrative Law Judge does not find it credible that the information was received by the department.

With no information to show that the claimant's hours were reduced, the department continued to budget the averaged monthly income and the averaged UCB for the claimant. Absent any evidence of a reduction in hours, this was proper by the department.

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 claimant's FAP benefits due to excess income as the claimant failed to provide evidence to show that her hours had been reduced.

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 20, 2010

Date Mailed: April 22, 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.

2010-24388/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]