

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.: 2010-24402
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 1, 2010
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on April 1, 2010. Claimant appeared and testified. [REDACTED], and [REDACTED] [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits based on his failure to provide verification of identity?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. On or about August 27, 2008, Claimant began receiving FAP benefits.

2. On January 29, 2010, DHS telephoned Claimant and verbally requested verification of identity.
3. Claimant responded that he was currently living in Sterling Heights, he did not have transportation to the DHS Grand River-Warren office in Detroit, and it would take three hours to reach the office from his residence.
4. On February 10, 2010, DHS issued a Notice of Case Action closing Claimant's FAP case effective March 1, 2010, for failure to provide verification of identity.
5. On February 17, 2010, Claimant requested a hearing in a written Notice to DHS.

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS' FAP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). These manuals are available online at www.mich.gov.

Pursuant to BAM 105, customers must cooperate with the local DHS office in determining initial and ongoing eligibility. This includes completing necessary forms. DHS must tell the client what verification is required, how to obtain it, and the due date. DHS must use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130, pp. 2-3.

Customers must take actions within their ability to obtain verification. The local DHS office must assist customers who ask for help in completing forms or gathering verification. Particular sensitivity must be shown to customers who are illiterate, disabled, or not fluent in

English. DHS must allow the client ten calendar days (or other time limit specified in policy) to provide the requested verification. BAM 105, pp. 5, 8 and 10; BAM 115, p. 4.

If the client cannot provide verification despite a reasonable effort, DHS must extend the time limit at least once. DHS is to send a negative action notice when (1) the client indicates a refusal to provide a verification, or (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. Only adequate notice is required for denial of an application. If there is a discrepancy between the information from a third-party source and the information from the client, DHS must give the client a reasonable opportunity to resolve the discrepancy before determining eligibility. BAM 130, pp. 5-6.

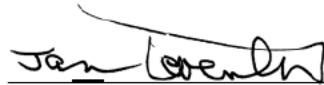
DHS is required to send a timely notice of a negative action, such as a denial, at least eleven days before the negative action is scheduled to take effect. The negative action is held in abeyance to provide the customer a chance to react to the proposed action. BAM 220, p. 4.

Based on my findings of fact and the BAM sections above, I conclude that Claimant did not refuse to cooperate with DHS and is entitled to ongoing FAP benefits. I conclude that Claimant was never sent a written notice or verification checklist for verification of identity. I conclude that Claimant was not provided with sufficient time in which to submit verification. I conclude that Claimant's expression of his transportation difficulties was a request for help and the worker did not provide any assistance to the Claimant.

I conclude that the DHS action is, therefore, erroneous and shall be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS' termination of Claimant's FAP benefits is REVERSED. DHS is Ordered to initiate a redetermination of Claimant's eligibility for FAP benefits and provide any sums to Claimant to which he is entitled in accordance with applicable law and policy.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 9, 2010

Date Mailed: April 12, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JL/pf

cc:

