

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: 2010-26571
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 13, 2010
Calhoun 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 13, 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 verification information in March, 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. On February 26, 2010, the department worker met with SC, the claimant's daughter, to conduct an in-person FIP interview. At that time, the claimant's daughter indicated that she was living in the home of her mother and step-father, [REDACTED]

2. On February 26, 2010, the claimant was mailed a Verification Checklist (DHS-3503) requesting all income information from [REDACTED], as he was now living in the claimant's home. This information was due back to the department by March 8, 2010. (Department Exhibit 1 – 2).

3. On March 9, 2010, the claimant was mailed a Notice of Case Action (DHS-1605) informing her that her FAP case was closing for failure to provide the required verifications. (Department Exhibit 3 – 6).

4. On March 9, 2010, the caseworker mailed an Address Information Request to the U.S. Postal Service. On March 29, 2010, the post office returned the information and indicated that [REDACTED] was residing at the claimant's address. (Department Exhibit 7).

5. The claimant submitted a hearing request on March 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.

In this case, the claimant disputes the department's actions in terminating her FAP benefits when she failed to return requested verifications. The claimant testified that she did not receive the Verification Checklist requiring her to submit income information for her husband, [REDACTED]. The claimant also testified that her daughter was lying when she told the department on February 26, 2010 that her husband, [REDACTED] was already residing in the home.

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. PAM 105. Department policy states that the department will allow the client ten calendar days to provide requested verifications. If the client cannot provide the verification despite a reasonable effort, the department can extend the time limit at least once. PAM 130. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM 105.

The claimant testified that she never received the Verification Checklist that was mailed to her on February 26, 2010. However, the Verification Checklist was mailed to the claimant's correct address. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The claimant testified that the only reason she could think that her mail wouldn't get to her is if her daughter took the mail because she was angry she was being evicted by her mother. The claimant testified that she was in the process of evicting her daughter from the home so that her husband could move in with her. The claimant further testified that her husband did not move back into the home until the second week of March, 2010.

The claimant presents a paycheck stub and some mailing envelopes to support her contention that he didn't move in until March, 2010. The paycheck has a pay date of February 26, 2010. The postmark dates are not legible on the envelopes. The department presents an Address Information Request that is completed by the post office and indicates that by (at least) March 29, 2010, the claimant's husband was living at the claimant's mailing address.

However, the issue is not actually when the claimant's husband moved into the house, but is if the claimant failed to respond to the Verification Checklist. This Administrative Law Judge finds that the department did mail the Verification Checklist to the claimant's proper address. This Administrative Law Judge finds it unlikely that the claimant's daughter is going to steal her mail from DHS to thwart her mother's attempts to evict her. Further, the claimant received the Notice of Case Action, which was mailed to the claimant on March 9, 2010, as the claimant submitted a hearing request on March 11, 2010. This Administrative Law Judge does not find it

credible that the claimant's daughter stole one piece of mail from DHS, but wouldn't take any others.

Thus, this Administrative Law Judge does find that the claimant received the Verification Checklist requesting income information from her husband. Even if the claimant's husband had not yet moved in, the claimant was required to reply and provide known information to the department, such as when he would be moving in and what his income would be at that time. The claimant made no attempt to contact the department. Thus, the department properly took action to close the claimant's FAP case as they could not determine eligibility or benefit amount.

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 because the claimant had not returned any information in response to the Verification Request.

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 22, 2010

Date Mailed: May 3, 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 [REDACTED]

cc:

[REDACTED]