

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant,

Reg No: 2010-29173

Issue No: 3008

Case No: ██████████

Load No: ██████████

Hearing Date:

April 22, 2010

Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing received by the Department on April 6, 2010. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 22, 2010. The Claimant appeared and testified on her own behalf. The Department's representatives Tanisha Carter, FIM and Edward Shelton, ES also appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case due to Claimant's failure to return verification of loss of employment?

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 was a FAP recipient.

2. In August 2009, the Claimant advised her worker that her husband no longer was working and was disabled.
3. On September 17, 2009, the Claimant provided the Department notification of a change in her SSI income and her husband's income for the last three months.
4. The Department mailed a Verification Checklist to the Claimant on November 24, 2009 which requested verification of loss of her husband's Employment. Exhibit 1.
5. The Claimant did not receive the verification checklist.
6. On January 13, 2010, the Department sent the Claimant a notice of case action closing the Claimant's FAP case, stating the closure was due to failure to verify or allow the Department to verify necessary information. Exhibit 2
7. The Claimant provided the Department, prior to closure of her FAP case, proof of her husband's disability through a doctor's note disabling him as of September 2, 2009 and the doctor's note regarding his surgery.
8. The Department did not receive the information and thus closed the Claimant's case because it did not receive the requested verifications.
9. After the Claimant's FAP case was closed, the Claimant had the doctor refax the requested information. Exhibit 3
10. On April 6, 2010, the Department received the Claimant's Request for Hearing which protested the Department's closure of the Claimant's FAP case.

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) 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 Reference Tables (RFT).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

The Department is required to verify income at application and when a change is reported. BEM 554, p. 11.

In this case, the Department mailed out a verification checklist requesting that claimant provide the Department with information to establish her husband's loss of employment. This verification request was confusing, in that, the Claimant's husband had not lost his employment but was unable to work due to being disabled by his doctor and surgery. The claimant did not respond to the Department's request for information because she did not receive the verification checklist. Although mail, which is properly addressed and mailed, is presumed to be received, the claimant had timely responded to the Department's request in the past and testified credibly that she did not receive the verification. Additionally, the Claimant called when she received the Notice of Case Action to determine why the case was closing and then learned, for the first time,

that she was required to submit proof that her husband was not working. At this time, the Claimant provided the Department with the requested information, a doctor's note, indicating that her husband was disabled and could not work. The Department had no record of receiving the information. The Claimant then had the information faxed to the Department by the Doctor treating her husband, but the Claimant's FAP case had closed.

The Notice of Case Action was unclear and did not specify what the Claimant had failed to supply. Had the notice been clear, i.e. had it indicated that the requested information was for proof of loss of employment, the claimant would have had a better opportunity to understand the problem and respond quickly. Under these circumstances, because it is found that the claimant did not receive the Verification Checklist, the Department should not have closed the Claimant's FAP case. This finding was also influenced by the fact that, generally, the claimant had always been responsive to the Department's requests for information and reporting changes to the Department. The undersigned finds that Claimant did not refuse to provide requested information. Furthermore, it was not Claimant's fault that she did not receive the request for verification.

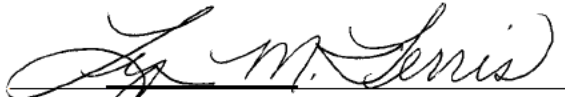
Based upon the foregoing facts and relevant law, it is found that the Department's decision to close Claimant's FAP case is REVERSED for the reason that the Claimant did not receive the verification checklist.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did not support the decision of the Department to close the Claimant's FAP case for failure to provide verification of loss of employment; therefore, its action must be REVERSED for the reason the Claimant did not receive the request for verification.

Accordingly, it is ORDERED:

1. The Department's decision to close the Claimant's FAP case on February 1, 2009 due to failure to provide verification information is REVERSED.
2. It is further ORDERED that Claimant's FAP case shall be reinstated retroactive to the date of closure, February 1, 2010, and the Department shall issue a supplement to the Claimant for any FAP benefits she was otherwise entitled to receive for the months of February and March 2010.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/25/10

Date Mailed: 05/26/10

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.

LMF/dj

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