

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.: 2010-29287
Issue No.: 3008, 3019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 24, 2010
Wayne County DHS (57)

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 May 24, 2010. Claimant appeared and testified. [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 Claimant's failure to provide the Semi-Annual Contact Form?

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. Claimant was a recipient of FAP benefits in 2009.

2. On or about December 1, 2009 DHS sent Claimant a Semi-Annual Contact Report which stated in bold print in the first sentence that it “**must**” be completed, signed, dated, and accompanied by income proof and information changes by January 1, 2010. Claimant received the form via U.S. Mail.
3. Claimant failed to read the instructions informing her of the January 1, 2010 deadline requirement.
4. Claimant was in the process of moving and lost the Semi-Annual Contact Report form.
5. Claimant failed to submit the Semi-Annual Contact Report form.
6. On January 31, 2010, Claimant’s FAP benefits were terminated for three months, February-April, 2010.
7. On March 29, 2010, Claimant requested a hearing in a written Notice to DHS.
8. Claimant stated in her Request for Hearing:

Spoke to Ms. McKenzie the week of 3-26-10 and **she stated I don’t have any because I didn’t feel (sic) out & send in the semi-annual form.** That’s why I was bringing in check stubs & whatnot because of that. But she doesn’t remember anything. I am so tired of her. I have spoken to Ms. Gilmer as well. I just want my food benefits that I feel I am entitled to. She isn’t & haven’t (sic) been doing her job and I’m just so fed up with her. (illegible) **everything she has asked me to bring in I did then when I talk to her it’s always something else.** Request for Hearing, March 29, 2010. (Bold print added for emphasis.).

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, claimants must cooperate with the local DHS office in determining initial and ongoing eligibility. This includes completing necessary forms. DHS must tell the claimant 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.

Claimants must take actions within their ability to obtain verification. The local DHS office must assist claimants who ask for help in completing forms or gathering verification. Particular sensitivity must be shown to claimants who are illiterate, disabled, or not fluent in English. DHS must allow the claimant 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 claimant 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 claimant indicates a refusal to provide a verification, or (2) the time period given has elapsed and the claimant 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 claimant, DHS must give the claimant 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 claimant a chance to react to the proposed action. BAM 220, p. 4.

In this case, Claimant's FAP benefits were discontinued for three months after she failed to submit the Semi-Annual Contact Report. I conclude that, pursuant to BAM 105, Claimant, by her actions and statements, "refused to cooperate" with DHS.

Claimant's statements in her Hearing Request indicate that she was asked for the form and complained that her DHS case worker was always asking for more documentation. I conclude that Claimant's written statement and her hearing testimony show that Claimant never submitted the form, although she was asked for it on at least one occasion.

I do not believe Claimant's hearing testimony that she initiated a request for the form in January, 2010, because I do not believe that Claimant understood the significance of the form until the hearing date. I believe that Claimant felt she had done everything that was required of her, the caseworker was asking more of her than was required, and that she was entitled to her FAP benefits.

Furthermore, the DHS notes indicate that, on January 25, 2010, Claimant faxed documentation to DHS, but Claimant did not recall faxing documents on that date. This documentation is not in the record. The record contains only two paystubs dated January 28 and February 11, 2010. I conclude that Claimant failed to understand there was a required form and thought that what was required of her was only her paystubs. This, in combination with Claimant's statements in the Hearing Request, also indicates she did not understand the necessity of the Report form.

I believe that Claimant failed to understand that the Semi-Annual Contact Report form was a requirement. Claimant at no time submitted the Semi-Annual Contact Report form. I conclude that the fact that she did submit paystubs and other documents in January and February, 2010, indicates that she understood she was required to present change of income information

about a new job, and properly informed DHS of this. I conclude that Claimant has refused to cooperate with DHS based on her written statement and her testimony taken as a whole. I conclude that Claimant felt she had done everything she was supposed to do, even though the DHS specialist was telling her that DHS needed the form.

I conclude that the DHS action is, therefore, correct and shall be AFFIRMED.

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 for February-April, 2010, is AFFIRMED. DHS need take no further action in this matter.



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

Date Signed: June 1, 2010

Date Mailed: June 2, 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.

JL/pf

cc:

