

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010-32887
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 12, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on August 12, 2010. The Claimant appeared and testified.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits for failure to provide verifications?

FINDINGS OF FACT

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

1. On March 16, 2010, the Claimant was mailed a review packet for his FAP benefits with a telephone appointment for April 6, 2010.
2. On April 6, 2010, the Claimant failed to return his review packet and verifications and participate in a phone interview.
3. On April 6, 2010, a missed appointment notice was sent to the Claimant.
4. On April 19, 2010, a notice of case action was sent to the Claimant.
5. On April 30, 2010, the Claimant's MA and FAP were both closed.
6. On April 26, 2010, the Claimant requested a hearing.

7. On May 3, 2010, a pre-conference hearing was offered.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the present case, Claimant disputes the closure of his FAP and MA case for failure to return verifications for a review. The Claimant testified he did, in fact, receive the materials sent by the Department but decided not to return them timely since he figured they would lose the paperwork and he would instead wait and file a hearing. The Department, upon not receiving the paperwork back from the Claimant, not only closed his FAP case but his MA case as well. It should be noted no review was due for the Claimant's MA case until November 2011, as indicated by a previous judicial order. Therefore the only program eligible for review was, in fact, the FAP benefits.

Therefore, the Department incorrectly closed the MA case based upon the failure to complete a FAP case review. However, the Department has an obligation under the policy to complete a FAP review which includes requesting an updated application and other verifications as indicated by the policy below.

Relevant policy can be found at BAM Item 130, p.2-3:

Obtaining Verification All Programs

Tell the client what verification is required, how to obtain it, and the due date. Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.

Use the DHS-3503C, Verification Checklist for Citizenship/Identity to request documentation of citizenship or identity for Medicaid determinations.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

**Verification Sources
All Programs**

“**Verification Sources**” of each PEM item lists acceptable verifications for specific eligibility factors. Other, less common sources may be used **if** accurate and reliable.

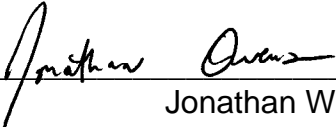
Use a particular source **if** it is the most reliable (e.g., public records). Otherwise, use the one easiest to obtain.

In the instant case, the Claimant’s FAP case was in fact due a review. The Claimant received his review materials timely and made the choice to not return them on time as requested. The Claimant, therefore, did fail to comply with the request to provide verifications properly made by the Department and the Department correctly closed his FAP benefits as a result. However, the Department’s closure of the Claimant’s MA was, in fact, contrary to policy and should not have occurred.

DECISION AND ORDER

The Administrative Law Judge (ALJ), based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was acting in compliance with Department policy when it closed the Claimant’s FAP benefits for failure to return verifications. In addition, this ALJ finds the Department error in closing the Claimant’s MA case.

Accordingly, the Department’s decision regarding FAP benefits is **AFFIRMED** and the Department’s decision to close MA is **REVERSED**. The Department is to re-open the Claimant’s MA benefits back to the date of closure.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/30/10

Date Mailed: 08/30/10

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.

JWO/dj

cc:

A large black rectangular redaction box covers the names of the recipients in the 'cc:' field.