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: 2010-37168
Issue No: 3008
Case No: ████████
Load No: ████████
Hearing Date:
July 15, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on 5/13/2010. After due notice, a telephone hearing was held on Thursday, July 15, 2010. The Claimant was represented at the hearing by an authorized hearing representative. The Claimant and her representative speak only Vietnamese, and the Department provided a translator for the hearing.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

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 received FAP benefits until May 1, 2010.

(2)   On March 31, 2010, the Department sent the Claimant a Redetermination form with a due date of April 15, 2010. Department Exhibit 2.

(3)   The Department sent the Claimant a Notice of Missed Interview on April 15, 2010. Department Exhibit 1.

(4)   The Department received the Claimant's request for a hearing on May 13, 2010, protesting the termination of her FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral

contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Clients are allowed 10 calendar days (or other time limited specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client had not made a reasonable effort to provide it. BAM 130, p. 4.

The Claimant was a FAP recipient when the Department sent her a redetermination form on March 31, 2010. The Claimant had until April 15, 2010, to return the completed form, at which time a telephone interview would take place. When the Claimant did not return the form by the deadline, the Department sent her a Notice of Missed Interview, which made it her responsibility to reschedule the interview. The Claimant did not contact the Department, and her FAP benefits where terminated.

The Claimant argued that she is not capable of reading the English language, which was a barrier to completing the Redetermination form.

The Claimant was receiving FAP benefits when she received the Redetermination form. The Department testified that language difficulties had not prevented the Claimant from participating in the FAP eligibility determination process in the past. There is no evidence that the Claimant attempted to obtain assistance from the Department after receiving the Redetermination form or the Notice of Missed Interview.

Although the Claimant did not understand the form the Department sent her, this did not alleviate her duty to complete the Redetermination form, or seek assistance from the Department if she was not capable of completing it.

Based on the testimony and evidence presented at the hearing, the Department has established that it acted in accordance with policy when it terminated the Claimant's FAP benefits for failure to cooperate.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

/s/_____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: _July 21, 2010_____

Date Mailed: _July 22, 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.

KS/vc

cc: