

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-44693
Issue No.: 3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 10, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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. After due notice, a hearing was held in Highland Park, Michigan on Thursday, September 9, 2010. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's food assistance benefits ("FAP") effective July 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. The Claimant was a FAP recipient
2. On May 1, 2010, the Department sent the Semi-Annual Contract Report ("Report") to the Claimant for completion.
3. On June 1, 2010, the Claimant submitted the completed Report. (Exhibit 1)
4. The Claimant submitted two pay stubs from her son's employment. (Exhibit 2)
5. The Claimant submitted a copy of her Supplemental Security Income which showed the Claimant's \$674.00 monthly benefit amount. (Exhibit 3)

6. The Department did not inform the Claimant that further information was needed.
7. On June 10, 2010, the Department sent a Notice of Potential Food Assistance Closure ("Notice") for the stated reason that the Claimant purportedly did not return the Semi-Annual Contract form or required information. (Exhibit 4)
8. Upon receipt of the Notice, the Claimant attempted to contact her caseworker without success.
9. On July 21, 2010, the Department received the Claimant's timely written Request for Hearing. (Exhibit 5)

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

The Department periodically re-evaluates cases to ensure that continued eligibility for benefits. BAM 210 For FAP purposes, a complete redetermination is required at least every 12 months. BAM 210 FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is entered. BAM 210 If the client does not submit a redetermination request, the benefit period expires. BAM 210 Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended at least once. BAM 130 A negative action notice is sent when the client refuses to provide the requested verifications or the time period has lapsed for the request and the client has not made a reasonable attempt to provide it. BAM 130

In the record presented, the Department sent the Semi-Annual Report to the Claimant for completion. The Claimant submitted the completed report along with the requested

verifications. Regarding the son's employment, the Claimant submitted paystubs for a two week period as opposed to four. There was no communication from the Department to the Claimant requesting an additional two week period nor was she informed that what she provided was not sufficient. Further, there was no evidence that the Claimant had refused to cooperate. Under these facts, the FAP closure is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law find the Department's termination of FAP benefits is not upheld.

Accordingly, it is ORDERED:

1. The Department's termination of FAP benefits is REVERSED.
2. The Department shall reinstate the Claimant's FAP benefits from the date of closure and supplement for any lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 9/14/2010

Date Mailed: 9/14/2010

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 of the rehearing decision.

CMM/jlg

2010-44693/CMM

cc:

