

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: 2010-50881
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 22, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 telephone hearing was held on September 22, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly close the claimant's Food Assistance Program (FAP) benefits for failure to return required verifications in June, 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 receiving FAP benefits when her case came due for review. The claimant was mailed a Semi-Annual Contact form on May 1, 2010, due back to the department by June 1, 2010. (Department Exhibit 3)
2. The claimant did not return the form until July 9, 2010. (Department Exhibit 3)

3. The department mailed the claimant a Notice of Potential Food Assistance (FAP) Closure (DHS-1046-A) on June 10, 2010, informing the claimant that the FAP case would close effective June 30, 2010 because the Semi-Annual Contact Form was not returned. (Department Exhibit 4)

4. The claimant submitted a hearing request on August 16, 2010.

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 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) and the Program Reference Manual (PRM).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**

- . the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

In this case, the claimant is disputing the closure of her FAP benefits. The claimant testified that she didn't receive the Semi-Annual Contact form (DHS-1046) until around July 4, 2010 and that she returned the form as soon as she received it. The claimant further testified that she never received the Notice of Potential Food Assistance Closure that was mailed to her on June 10, 2010. The claimant testified that she did receive the notice of hearing and the hearing summary.

The Semi-Annual Contact form allows the department to evaluate continuing eligibility for any programs the claimant is receiving. Department records show the Semi-Annual Contact form was mailed to the claimant on May 1, 2010. The form states that the client "must complete this form, sign and date it, and return it to your specialist with proof of income and expenses by 6/1/2010 or your Food Assistance case will close effective 6/30/2010."

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility, which includes completion of the necessary forms. BAM 105. When the department did not receive the Semi-Annual Contact form and verifications by the due date, the department had no choice but to allow the claimant's benefit period to expire.

The claimant's testimony that she did not receive the Semi-Annual Contact form until about July 4, 2010 is not supported by evidence. The document is dated May 1, 2010 and the

Bridges computer system correspondence history shows that it was mailed on May 1, 2010. It was mailed to the claimant's correct mailing address. Further, the claimant was also mailed a Notice of Potential FAP Closure on June 10, 2010 that indicated she hadn't returned the Semi-Annual Contact form and that her case would close on June 30, 2010. The claimant testified that she did not receive this form. However, this form was also properly addressed to the claimant.

The claimant was asked if she had the mailing envelope with the postmark date on it to show if there was any delay in the mailing. The claimant stated that she did not have the envelope to present as evidence. Thus, there is no evidence to show the claimant would not have received two separate documents properly addressed by the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's FAP benefits for failure to return required verifications in June, 2010.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/S/ _____
Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 28, 2010

Date Mailed: September 30, 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.

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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.

SLM [REDACTED]

cc: [REDACTED]