

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: 20105329
Issue No: 3022
Case No: ██████████
Load No: ██████████
Hearing Date:
December 9, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 October 23, 2009. After due notice, a telephone hearing has conducted from Detroit, Michigan on December 9, 2009. The Claimant appeared and testified. Nakesha Woods, FIM appeared for the Department.

ISSUE

Whether the Department properly closed the reduced Claimant's Food Assistance Program ("FAP") benefits based on failure to return wage verifications?

FINDINGS OF FACT

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

1. The Claimant was a FAP recipient.
2. The Department testified that Claimant was mailed a redetermination packet on August 19, 2009. (Exhibit 1, pp. 3).
3. Claimant's case worker was out on medical leave shortly following.

4. Claimant was mailed a follow up verification for wages on 9/14/09 due back on September 24, 2009. (Exhibit 1, pp. 1-2).
5. Claimant testified that she began working her seasonal employment (at football games) in September, 2009.
6. Claimant testified that she came into the Department office and spoke with a screener informing the Department that she would not receive a paycheck until October, 2009 and would turn in her pay stubs then.
7. Claimant testified that she turned in pay stubs in October, 2009.
8. On 9/30/09, Claimant's FAP case was closed.
9. On October 23, 2009 the Department received the Claimant's hearing request protesting the termination of the FAP benefits.
10. Claimant reapplied for FAP benefits in November, 2009 and has not received a response from the Department.

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"), formally 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 Program Reference Manual ("PRM").

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the 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. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. 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 has not made a reasonable effort to provide it. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the best available information should be used. If no evidence is available, the Department should use its best judgment. BAM 130, p. 3.

In the record presented, Claimant testified that she talked with a screener about not having any pay stubs to submit until October. The Administrative Law Judge finds Claimant's testimony credible. Furthermore, Claimant was not given a wage verification form to submit to her employer earlier. Claimant did not refuse to provide verification. Rather Claimant attempted to provide information as soon as she could. Claimant should have been granted a 10 day extension per regulations. The Administrative Law Judge finds that the Department's actions were not in accordance with the regulations.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

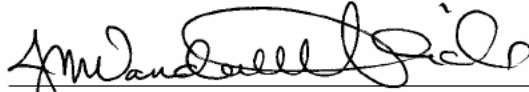
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP case.

Accordingly, it is ORDERED:

1. The Department's negative FAP action is REVERSED.

2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete any negative action associated with the 9/30/09 FAP closure and supplement the Claimant for any lost benefits she was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/22/09

Date Mailed: 12/23/09

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.

JV/dj

cc:

