

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: 2010-738

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 29, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 29, 2009. Claimant was present and testified. Tonya Wickware, ES, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close claimant's Food Assistance Program (FAP) benefits for failure to return verifications?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of FAP benefits.

(2) On June 1, 2009, the department issued a Semi Annual Contact report to be completed by claimant and returned with verification of income and expenses by July 1, 2009. (Department Exhibit 1, pg. 1)

(3) On June 8, 2009, claimant returned the Semi Annual Contact report, but some verifications were missing.

(4) On June 8, 2009, the department issued a Verification Checklist for claimant to provide a DHS 38-Verification of Employment Income and to “verify job ended for you and Elizabeth” with a due date of June 18, 2009. (Department Exhibit 2, pg. 3)

(5) Claimant testified her daughter brought the pay stubs in to the department office.

(6) On August 18, 2009, the department received additional copies of paychecks and a letter stating that a letter she is no longer working for the school will be sent the next day. (Department Exhibit 1, pgs. 8-12 and 15)

(7) On August 26, 2009, the department issued a Notice of Case Action indicating claimant’s FAP benefits would close October 1, 2009 for failure to provide verifications. (Department Exhibit 1, pgs. 16-17)

(8) Claimant filed a hearing request to contest the FAP closure on September 14, 2009.

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 Manuals.

Under BAM 105, clients must cooperate with the local office in determining initial and ongoing eligibility. Clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. The department is to request verification when required by policy, when required by local office option, or when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130. The department is to allow at least 10 days to provide the verification requested. BAM 105. A negative action notice is to be sent 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. BAM 130. The department must also help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. BAM 130.

In the present case, claimant's FAP case was up for a review and she was mailed a Semi Annual Contact Report on June 1, 2009 to complete and return with verifications of income and expenses by July 1, 2009. (Department Exhibit 1, pg. 1) Claimant promptly returned the Semi Annual Contact Report on June 8, 2009 with some pay stubs. (Department Exhibit 1, pgs. 1, 4-7, and 13-14) However, claimant had been receiving income from a pension and did not include this as a source of unearned income or that she expected there to be a change with pension income on the second page of the Semi Annual Report. (Department Exhibit 2, pg. 2) The department also needed additional verifications of income and that the employment for claimant and her daughter had ended so a Verification Checklist was issued on June 8, 2009 to provide this information by June 18, 2009.

Claimant testified that the pension income stopped on July 1, 2009. Accordingly, she was still receiving this income on June 8, 2009 when she submitted the Semi Annual Contact Report to the department. Claimant further testified that she knew it was going to end, but

because things were changing with the divorce and getting proper paperwork filed, signed by the Judge, and then returned in the mail, she did not have any verification to submit. However, claimant failed to inform the department at any time prior to the hearing, that there was a change in the unearned pension income or that instead of the pension income, her ex-husband would instead pay some other expenses. This was a change in circumstance that potentially affected her eligibility or benefit amount that she was required to report to the department under BAM 105.

Further, it does not appear claimant provided complete verifications in response to the June 8, 2009 Verification Checklist or that the verifications were submitted timely. The checklist was issued on June 8, 2009 with a due date of June 18, 2009. However, the only additional verifications provided were stamped as received in the drop box on August 18, 2009. (Department Exhibit 1, pgs. 8-12 and 15) Claimant testified her daughter submitted the additional pay stubs the day after claimant had a phone conversation with the worker. While additional pay stubs were received, it does not appear that verification of employment ending for either claimant or her daughter was provided. The August 18, 2009 cover sheet indicated the school would have the letter ready the next day, but it does not appear it was ever submitted.

Based upon the foregoing facts and relevant law, it is found that the claimant did not fulfill her responsibility to report all changes in income under BAM 105 or that she timely provided all requested verifications. Therefore, the department properly closed the FAP benefits October 1, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant did not fulfill her responsibility to report all changes in income under BAM 105 or that she timely provided all requested verifications.

Accordingly, the department's FAP determination is AFFIRMED.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 6, 2009

Date Mailed: November 6, 2009

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.

CL/cv

cc:

