

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: 2010-758
Issue No: 3022, 5016
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 4, 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 filed on October 6, 2009. After due notice, a telephone hearing has conducted from Detroit, Michigan on November 4, 2009. The Claimant appeared and testified. Lisa Mims-Jones, FIS appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance program ("FAP") case effective 10/1/09?

Whether the Department properly denied Claimant State Emergency Relief ("SER") benefits for failure to submit 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 an active FAP recipient up for annual review.

2. The Department sent Claimant a semi annual contact report on 8/4/09 with a due date of 9/1/09 requesting current proof of income. (Exhibit 2).
3. Claimant returned the semi annual contact report along with two pay stubs from her current employer on 8/10/09. (Exhibit 3).
4. Section 4 of the semi annual contract indicates that “You must include current proof of all income your household received for the past 30 days, e.g., pay stubs, self-employment records, Child Support income, Unemployment records.”
5. The Department testified that Claimant did not turn in the appropriate wage verifications.
6. Around the same time, Claimant applied for SER benefits because she had a \$3000.00 DTE Energy bill.
7. The Department testified that SER benefits were denied because the Claimant did not turn in the appropriate wage verifications.
8. The Department terminated Claimant’s FAP benefits effective 10/1/09.
9. No notices of denial or change in benefits were provided in the hearing packet.
10. On September 28, 2009 the Department received the Claimant’s hearing request protesting the termination of the FAP benefits.
11. Claimant has been without electricity for four (4) months.

CONCLUSIONS OF LAW

A. FAP

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 Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), 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. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. PAM 130, p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 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. PAM 130, p. 3.

In the record presented, Claimant testified that she turned in the requested verifications a couple days after receipt of the verification request. Furthermore, the evidence shows that Claimant had until September 1, 2009 to return verification. Claimant indicated that she turned in two pay stubs for her one job on 8/10/09. Section 4 of the semi annual contract indicates that “You must include current proof of all income your household received for the past 30 days, e.g., pay stubs, self-employment records, Child Support income, Unemployment records.” Claimant

did this as at the time of the verification request. Claimant, therefore, did not refuse to provide information. On the contrary, Claimant provided as much information as was available to her.

With regards to other employment of Claimant, Claimant testified that she had not received any work from her second on-call job since April, 2009. The previous wage verification indicates that Claimant would work up to 15 hours per week and that her schedule varies. If additional information was needed, the Department should have sent a wage verification to the employer or instructed Claimant to obtain a wage verification from the employer. There is no evidence that the need for additional information was communicated to the Claimant. The Administrative Law Judge finds that Claimant submitted sufficient verification and the Department should have used the best information available in this case.

Therefore, it is found that the Department did not act in accordance with department policy resulting in the improper closure of the Claimant's FAP benefits.

B. SER

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (SER).

The Department testified that it did not process Claimant's State Emergency Relief application because it did not have verifications of Claimant's income. For the reasons stated above, the Administrative Law Judge finds that Claimant submitted all current wage information that she had. If additional income verification was needed, the Department should have taken additional steps to obtain it.

Accordingly, the Department's determination to deny SER benefits based on Claimant's failure to submit wage information is REVERSED.

DECISION AND ORDER

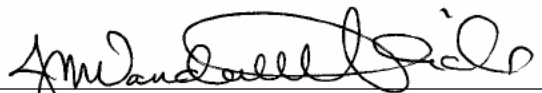
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP case.

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 the negative action and supplement the Claimant for any lost benefits she was otherwise entitled to receive

Furthermore, the Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department failed to properly process the Claimant's SER application.

Accordingly, it is ORDERED that the Department shall reopen and reprocess Claimant's SER application.



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

Date Signed: 12/10/09

Date Mailed: 12/11/09

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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:

