

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.: 2010-12661
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
January 27, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 telephone hearing was held on January 27, 2010. The Claimant appeared and testified along with her boyfriend and household member [REDACTED]. [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Was the department correct in closing Claimant's FAP benefits?

FINDINGS OF FACT

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

- (1) Pursuant to a six month review, a verification checklist was sent to Claimant on April 13, 2009 requesting verifications with a May 1, 2009 due date.
- (2) On April 27, 2009 Claimant submitted an assistance application disclosing employment income for household member [REDACTED] of \$800 from [REDACTED].

- (3) On May 31, 2009 the Department closed Claimant's FAP benefit because Claimant failed to return employment verification for household member Sue Chang.
- (4) Claimant requested a hearing on August 27, 2009 contesting the closure of benefits.

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 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 provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the Department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6. The Department is to request verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130.

In the present case, Claimant disclosed the household member's employment income prior to the deadline on the verification checklist. If the Department felt that this information was incomplete then further verification should have been requested. BAM 130, p. 1 Claimant credibly testified at hearing that he was not able to provide check stubs because he was paid in cash. It was explained at hearing that verification could come directly from the employer. Claimant testified at hearing that contact information for his employer would have been provided if it had been requested. The Department has not met its burden to show claimant was noncooperative. This Administrative Law Judge finds that Claimant was cooperative and therefore closure of Claimant's FAP benefits was not warranted and improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in the closure of Claimant's FAP benefits, and it is ORDERED that the Department's decision is hereby REVERSED and the application shall be reinstated and reprocessed as of the date of the closure May 31, 2009. It is further ORDERED that the Department allow Claimant to provide verification of the actual hours worked and wages earned and then use the verification to recalculate the FAP budgets retroactively back to the closure date of May 31, 2009.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/24/2010

Date Mailed: 3/24/2010

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 date of the rehearing decision.

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