

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: 201015916
Issue No: 3019
Case No: ██████████
Load No: ██████████
Hearing Date:
March 3, 2010
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 received by the Department on November 25, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 3, 2010. The Claimant appeared and testified. ██████████, FIM and ██████████, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's Food Assistance Program ("FAP") benefits due to a failure to return 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 applied for FAP benefits on 7/2/09. Claimant turned in all necessary documents, including wage verifications in July and was approved for FAP benefits.

2. A Semi-Annual Contact Report, DHS-1046, was mailed to Claimant on 11/3/09. (Exhibit 1).
3. Claimant returned said contact report on November 25, 2009 but failed to return wage stubs as requested.
4. The Department terminated FAP benefits effective 12/31/09.
5. Claimant testified that he was finally able to reach his case worker in January and submitted wage stubs at that time.
6. On November 25, 2009, the Department received the Claimant's Request for Hearing protesting the termination of the FAP 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

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. BAM 130, p. 5.

According to policy, a client is required to verify income at specific times:

- 1) At application;
- 2) At time of a member add, (only the income of the member being added);
- 3) At redetermination; or
- 4) When program policy requires a change be budgeted.

BEM 500, p. 9. Verifications are due by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM, p. 10 (emphasis added).

FAP groups with countable earnings and a 12-month benefit period must have also undergo a semi-annual contact. BAM 210, p. 6. A semi annual contact report is considered complete only when all of the sections (including the signature section) on the DHS-1046 are answered completely and required verifications are returned. Id. The DHS-1046 may be completed by the client, or client's authorized representative or by the specialist (during a telephone call, home call or interview with the client). The semi-annual contact must be completed by the last day of the sixth month of the benefit period to effect benefits no later than the seventh month. The contact is met by receipt of a completed DHS-1046 and required verifications.

A recertification, on the other hand, is a complete redetermination of FAP benefits that is required at least every 12 months. BAM 210, p. 1. However, an interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p. 3.

In the current case, the Department terminated benefits when Claimant did not return wage stubs in response to a semi-annual contract report. Claimant testified that he did not understand that he needed to submit his pay stubs especially since he had just submitted them months before and there were no changes in his employment. In this case, there was also no evidence presented that the Department sent out any negative action notice informing Claimant that his benefits would terminate. Had this been done, Claimant would have turned in his pay stubs. In fact, Claimant turned in his pay stubs immediately after his benefits terminated. Certainly, had the Department contacted the Claimant, by giving him notice, before terminating his benefits, an extension could have been granted within the month before Claimant's benefits terminated.

This analysis is further supported by the policy regarding redetermination. A semi-annual contact is performed every six months (for a 12 month certification period), where a redetermination occurs every 12 months or at the end of the certification period. The policy is clear that benefits may not be terminated on redetermination until an interview is held with the client. It follows that similar precautions are followed (ie, notice sent) following the shorter, semi annual contact period.

Accordingly, it is found that the Department's termination of the Claimant's FAP benefits is REVERSED.

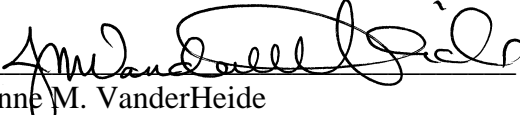
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is held:

1. The Department's decision to terminate the Claimant's FAP benefits is REVERSED.

2. The Department shall reopen Claimant's FAP benefits as of the date of closure and supplement the Claimant for any lost benefits he was otherwise entitled to receive.



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

Date Signed: March 25, 2010

Date Mailed: March 25, 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.

JV/hw

cc:

