

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.: 2010-15931

Issue No.: 3008

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

February 25, 2010

Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on February 25, 2010. The Claimant appeared and testified. [REDACTED] ES and [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Was the Department correct in closing Claimants' 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) Claimant was an FAP recipient.
- (2) Claimant was sent a semi-annual contact report requesting verifications on November 16, 2009 with a December 3, 2009 due date.

- (3) Claimant submitted the semi-annual contact report by mail prior to the due date and also dropped off another copy in person at the Department office after he received notice of closure. Claimant also signed the log book at that time.
- (4) Notice of potential food assistance closure was sent to claimant on December 31, 2009 informing him that his benefits would close.
- (5) Claimant's FAP benefits were closed on December 31, 2009 for failure to provide verifications.
- (6) Claimant requested a hearing on January 5, 2010 contesting the closure of 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 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. PAM 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. PAM 130, p.4; PEM 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. PAM 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. PAM 130, p. 6.

In the present case, Claimant provided the semi-annual contact report twice, once by mail and once in person. The Department could not locate either of the submissions Claimant testified that he made. However, this Administrative Law Judge finds the testimony of the Claimant credible. 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 benefits shall be reinstated as of the date of closure.



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

Date Signed: 3/30/2010

Date Mailed: 3/30/2010

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.

2010-15931/AM

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.

AM/jlg

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