

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: 2010-18218

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 10, 2010

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 March 10, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's Food Assistance Program (FAP) application for failure to return the required verification materials in December, 2009?

FINDINGS OF FACT

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

1. The claimant submitted an online application for FAP benefits in October, 2009.
2. On December 7, 2009, the department mailed the claimant a Verification Checklist (DHS-3503) requesting the claimant submit proof of shelter expenses (rent, utilities) and verification of identity. This was due to the department by December 17, 2009.

(Department Exhibit 20 – 21).

3. On December 9, 2009, the department mailed the claimant a Verification Checklist (DHS-3503) requesting the claimant submit 30 days of paycheck stubs or a completed Verification of Employment (DHS-38). This was due to the department by December 21, 2009. (Department Exhibit 14 – 15).

4. On December 5, 2009, the claimant faxed a driver's license and school identification card, a copy of her lease, utility bills, a paycheck stub from [REDACTED] and a time card that doesn't indicate an employer. (Department Exhibit 22 – 30).

5. On December 28, 2009, the department denied the claimant's application for failure to provide verifications.

6. The claimant submitted a hearing request on January 19, 2010.

CONCLUSIONS OF LAW

Department policy states:

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot

provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

Send a negative action notice 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. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

The claimant is required to comply with the department in providing the verification materials necessary to allow the department to determine initial or ongoing eligibility. PAM 105. In this case, the claimant was sent two Verification Checklists requesting documentation. One required the claimant to submit proof of shelter expenses (rent, utilities) and verification of identity and one required the claimant to submit 30 days of paycheck stubs or a completed Verification of Employment (DHS-38) for each of her employers. On December 5, 2009, the claimant submitted a copy of her school identification and driver's license, along with a lease agreement and copies of the utility bills. The claimant also faxed a paycheck stub from Beaumont Hospital and a time sheet from her other employer.

The department indicates that they didn't have enough information to budget the case with the paycheck stubs and needed completed Verification of Employment forms. The department worker testified that he did not receive the completed Verification of Employment forms by the due date (December 21, 2009) and denied the case for failure to provide the verifications on December 28, 2009.

Department policy indicates that the department should allow the client ten calendar days to provide the verifications requested. If the client can not provide the verification despite a reasonable effort, the department should extend the time limit at least once. PAM 130. In this case, the claimant testified that she emailed the department for additional time to provide the Verification of Employment forms because she was taking exams and wasn't going to be back to work to get the forms completed until after the due date. The department worker testified that he did not recall receiving any emails from the claimant asking for additional time.

The claimant did submit as exhibits copies of emails she sent the department worker. These emails very clearly indicate that she was asking for additional time to get the Verification of Employment forms completed. The claimant also explained that the paycheck stubs she had sent were the only stubs she had received for the 30 days requested by the department, because she had not worked due to her school schedule.

Thus, this Administrative Law Judge is unable to determine why the department could not have used the information the claimant submitted to budget her case. However, even if the department needed the Verification of Employment forms completed, the claimant very clearly communicated the need for additional time to get the forms completed and returned. The claimant certainly appears to have put forth a reasonable effort to get the information the department was requesting. Thus, the department should have granted the claimant an extension of time to submit the information. As such, the department improperly denied the claimant's application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied the claimant's FAP application.

Accordingly, the department's actions are REVERSED. The department shall:

1. Re-process the claimant's October, 2009 application.
2. Use the information provided by the claimant (including the Verifications of Employment that the claimant has now submitted) to budget the claimant's FAP benefits.
3. Issue the claimant any retroactive FAP benefits she is entitled to receive back to the date of application.

SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 5, 2010

Date Mailed: April 6, 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.

SLK [REDACTED]

cc: [REDACTED]