

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: 2010-27140
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 15, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on March 12, 2010. After due notice, a telephone hearing was held on Thursday, April 15, 2010.

ISSUE

Whether the Department of Human Services (Department) properly terminated the Claimant's Food Assistance Program (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) The Claimant receives FAP benefits.
- (2) The Department sent the Claimant a Semi-Annual Contract request on November 3, 2009, with a due date of December 1, 2009. Department Exhibit 2 – 3.

(3) The Department received copies of paystubs from the Claimant on November 30, 2009. Claimant Exhibit B & C.

(4) The Department sent the Claimant notice on December 10, 2009, that her FAP benefits would be closed after December 31, 2009. Department Exhibit 4.

(5) The Department sent the Claimant a Verification Checklist on December 9, 2010. Claimant Exhibit D.

(6) The Claimant signed in at the Department's office in Genesee County on December 18, 2009. Department Exhibit 13.

(7) The Claimant dropped off a copy of paystubs with her caseworker on December 18, 2009. Claimant Exhibit A.

(8) The Department sent the Claimant notice on December 31, 2009, that her FAP benefits were closed effective January 1, 2010. Department Exhibit 6.

(9) The Department received Claimant's request for a hearing, protesting the termination of her FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of 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. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

The Claimant provided copies of a paystub that is date stamped as being received by the Department on December 18, 2009. This is further supported by a copy of sign-in sheet from the Department's office showing that the Claimant signed in on December 18, 2009, with paystubs to drop off. The Claimant also provided copies of two other paystubs date stamped as being received by the Department on November 30, 2009. A copy of a Verification Checklist addressed to the Claimant shows that the Department had requested verification of wages, with a due date of December 21, 2009. There was no evidence provided showing a Department request for additional information that was not submitted by the Claimant.

Based on the testimony and documentation offered at the hearing, I find that the Claimant made a reasonable effort at providing the Department with the requested verification. I do not find that the Department established that it acted in accordance with policy in terminating the Claimant's FAP benefits as of January 1, 2010. The Claimant is entitled to have her FAP eligibility redetermined as of January 1, 2010 for herself and the members of her FAP group. The Claimant is entitled to receive a supplementary FAP allotment to makeup for any FAP benefits she was entitled to – if any – as of January 1, 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department failed to act in accordance with policy in terminating Claimant's FAP benefits.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Determine the Claimant's eligibility for FAP benefits as of January 1, 2010.
2. Issue the Claimant any supplemental benefits she is entitled to, if any.
3. Notify the Claimant in writing of the Department's revised determination.

/s/
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 30, 2010

Date Mailed: April 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.

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.

KS/vmc

cc:

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