

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: 2010-32812
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 25, 2010
Ingham 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 May 25, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits for failure to return the required verifications in April, 2010?

FINDINGS OF FACT

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

1. On March 15, 2010, the claimant submitted a Semi-Annual Contact Report that indicated the claimant had lost his employment with [REDACTED]
3. The claimant was mailed a Verification Checklist (DHS-3503) on April 9, 2010, requiring the claimant submit proof of the loss of employment by April 19, 2010. The claimant

was also mailed a Verification of Employment (DHS-38) to have his employer complete to verify the job loss. (Department Exhibit 1 – 2)

4. The claimant did not return any verification and the department sent him a Notice of Case Action (DHS-1605) on April 23, 2010, informing him that his FAP case would be closed.

5. The claimant submitted a hearing request on April 28, 2010.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

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. BAM, 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. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, 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. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, 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. BAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, 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. BAM, 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. BAM, Item 130, p. 4.

The claimant testified that he did complete and return the Semi-Annual Contact Form and indicate that he had lost his job with [REDACTED]. The department then mailed the claimant a Verification Checklist (DHS-3503), along with a Verification of Employment form (DHS-38) to have the claimant verify the job loss with his employer. This was mailed to the claimant on April 9, 2010 and due back to the department by April 19, 2010.

The claimant testified that he never received the Verification Checklist. The claimant explained that he had a death in his family and had to go to California during this time period. The claimant did not move or change addresses. There does not appear to be any reason the claimant would have received the Semi-Annual Contact Form and the Notice of Case Action, but not the Verification of Employment. 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 provides no evidence as to why he would not have received the mailing.

The claimant admits that he did not turn in any proof of the job loss. Department policy requires the claimant to cooperate with the local office in determining initial and ongoing eligibility, which would include completion of the necessary forms. BAM 105. The department is to inform the client what verification is required, how to obtain it, and the due date, by using the DHS-3503, Verification Checklist to request verification. BAM 130. The claimant did not request an extension, so the department had no choice but to terminate the claimant's FAP benefits for failure to provide the required verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly terminated the claimant's FAP benefits because the claimant did not return the required verifications.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/

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

Date Signed: June 10, 2010

Date Mailed: June 14, 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 

cc:

