

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: 2010-33974
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 3, 2010
Macomb County DHS (20)
SSPC-East

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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. After due notice, a telephone hearing was held on June 3, 2010. The Claimant appeared and testified. [REDACTED], [REDACTED], and [REDACTED] appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's FAP application for failing to verify income?

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 applied for FAP benefits on November 6, 2009.

- (2) A verification checklist was sent to Claimant on December 28, 2009 requesting employment verifications in the form of pay records.
- (3) Claimant submitted pay records for the previous 30 days prior to the deadline on the verification checklist.
- (4) Claimant did not work the last week in December 2009, the week the Department alleged Claimant failed to submit a pay stub.
- (5) On January 7, 2010 Claimant's application for FAP was denied for failure to return verifications.
- (6) Claimant requested a hearing on April 2, 2010 contesting the denial 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 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. BAM 130, p.4; BEM 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. BAM 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. BAM 130, p. 6.

In the present case, Claimant provided the pay records within the deadline. The Department questioned whether the pay records were complete, specifically inquiring about the last week in December. Claimant credibly testified that she did not work the last week in December. The Department has adequate pay records from which to calculate Claimant's Food Assistance benefits. This Administrative Law Judge finds that Claimant was cooperative and therefore denial of Claimant's FAP application was not warranted and improper.

The Department stated in the hearing summary that the hearing request was not timely. The notice of case action was sent January 7, 2010. Claimant sent her hearing request in on April 2, 2010 and it was received by the Department on April 5, 2010, 88 days after the notice of case action was sent. Claimant's hearing request is timely. It should be noted that the Department failed to process Claimant's application within the standard of promptness. BAM 115

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 denial of Claimant's FAP application, and it is ORDERED that the Department's decision is hereby REVERSED. Claimant's FAP

application shall be reinstated and reprocessed as of the date of application. Any missed benefits shall be paid to Claimant in the form of a supplement.



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

Date Signed: 06/23/2010

Date Mailed: 06/23/2010

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 90 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.

AM/cjp

cc:

