

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: 2010-3471
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 19, 2009
Kent 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 November 19, 2009. The claimant personally appeared and provided testimony, along with his wife, [REDACTED]

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits for failure to return the required verification materials in September, 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 was mailed a Verification Checklist (DHS-3503) on August 20, 2009, requesting self-employment income records for both the claimant and his wife for the months of June through August; paycheck stubs from the claimant's wife's employment

with [REDACTED] from the date of hire through present; and receipts of self-employment expenses. These items were due to the department by September 2, 2009.

(Department Exhibit 3).

2. The department did not receive any material until September 28, 2009. At that time, the department received paycheck stubs from [REDACTED] and self-employment income and expense statements from both the claimant and his wife for the required months.

(Department Exhibit 4 – 14).

3. The department had already placed the case into closure on September 25, 2009, for failure to return the verifications. (Department Exhibit 16)

4. The claimant requested a hearing on October 1, 2009.

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 Bridges Reference Manual (BRM).

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 claimants testified that they did receive the Verification Checklist form sent by the department in August, 2009. This form required the claimants to submit self-employment income and expense records and paystubs for [REDACTED] from [REDACTED] her date of hire to the present. These materials were due to the department by September 2, 2009. The claimants' do not dispute that the materials were turned in late, on September 28, 2009.

The claimants indicate that they provided much of the same material previously to the Verification Checklist and didn't think they needed to provide it again. [REDACTED] testified that she emailed the department her work information from [REDACTED] on August 12, 2009 (See Department Exhibit 22). This email does indicate that [REDACTED] will be starting employment with [REDACTED] on August 31, 2009 and also gives her approximate number of hours and rate of pay.

The claimants also testified that they had mailed in some of the requested information on July 16, 2009. There was documentation date-stamped as received by the department on July 17, 2009 in the mailroom. This documentation includes a letter from the [REDACTED] detailing [REDACTED] self-employment income for the month of June, along with copies of the checks

received by [REDACTED]. No material was provided for self-employment income or expenses for [REDACTED], self-employment expenses for [REDACTED] or any paycheck stubs.

Department policy states that clients must take actions within their ability to obtain verifications. BAM 105. Department policy directs the department to tell the client what verification is required, how to obtain it, and the due date by using the DHS-3503 Verification Checklist. BAM 130. Department policy directs the department to average out 90 days of income for self-employment income and expenses, as this is typically a fluctuating type of income. BEM 505. Therefore, the department mailed the Verification Checklist to the claimant to obtain the information necessary to complete the claimant's FAP budget.

Department policy indicates the clients are to be given 10 calendar days to provide the verification requested. BAM 130. Department policy does allow an extension of time to be granted if the clients are having difficulty obtaining the material and request additional time. BAM 130. In this case, the claimants did not request any extension of time or help in obtaining the documents. Once the time period given had elapsed and the clients had not made a reasonable effort to provide it, the case was placed into closure. BAM 130.

It is noted that [REDACTED] may not have had any paycheck stubs from [REDACTED] to submit yet on September 2, 2009. Therefore, this is not a document which the claimant was able to provide. However, the self-employment income and expenses from July and August for [REDACTED] and June through August for [REDACTED] were able to be provided to the department. As the claimants failed to do so, the department closed the FAP case.

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 claimants' FAP benefits because the claimants did not return the required verifications as requested by the department.

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: December 15, 2009

Date Mailed: December 21, 2009

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:

