

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.: 2010-5244
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
December 9, 2009
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

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 December 9, 2009. The Claimant appeared and testified. [REDACTED] FIM and [REDACTED] appeared on behalf of the Department.

ISSUE

Is the department correct in closing claimant's FAP benefit?

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 was an FAP recipient.
- (2) Claimant was sent a semi-annual contact report requesting employment verifications on August 4, 2009 with a September 1, 2009 due date.

- (3) Claimant submitted pay stubs and child support records prior to the due date. Claimant noted on these records that she was paid two times per month and received child support four times per month.
- (4) Notice of potential food assistance closure was sent to claimant on September 22, 2009 informing her that her benefits would close on September 30, 2009. What additional information the Department wanted was not disclosed on this notice.
- (5) Claimant's FAP benefits were closed on September 30, 2009 for failure to provide verifications
- (6) Claimant requested a hearing on October 23, 2009 contesting the closure 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 Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

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

In the present case, claimant provided pay records and child support records within the deadline. Claimant made notations on her records disclosing how often she was paid and how often she received child support. The department did not follow up or give claimant an opportunity to provide additional information. The department has not met its burden to show claimant was noncooperative. This Administrative Law Judge finds that claimant was cooperative and therefore closure of claimant's FAP benefits was not warranted and improper.

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 benefits, and it is ORDERED that the department's decision is hereby REVERSED and benefits shall be reinstated as of the date of closure.



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

Date Signed: 1/12/2010

Date Mailed: 1/12/2010

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.

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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.

AM/jlg

cc:

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