

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No.: 2010-7200
Issue No.: 3008
Case No.: ██████████
Load No.: ██████████
Hearing Date:
January 7, 2010
Oakland County DHS (3)

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 January 7, 2010. The Claimant appeared and testified along with her authorized representative ██████████. ██████████ FIM and ██████████ FIS appeared on behalf of the Department.

ISSUE

Is the department correct in closing claimant's FAP benefits for failing to provide verifications?

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 ongoing recipient of Food Assistance benefits.
- (2) Pursuant to a redetermination, an interview was scheduled for July 1, 2009.
- (3) Claimant appeared at this interview with a completed DHS-1010 form.

- (4) The Department could not determine eligibility based on the information provided at the interview and the Department allowed Claimant's benefits to end at the end of the certification period on July 31, 2009.
- (5) Claimant was not given an opportunity to clarify household income after the interview and prior to the certification period ending.
- (6) Claimant requested a hearing on October 3, 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 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. Workers are directed to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1.

In the present case, a significant factual dispute arose at hearing regarding what took place at the July 1, 2009 interview. Both sides agree that Claimant and her husband appeared at the interview with a completed DHS-1010 that disclosed no household income. Claimant testified that she divulged the household income information and attempted to provide income and bank records at the interview. Claimant further testified that she was told that a list of required documents would be sent to her following the interview. Claimant testified that she submitted bank records and pay stubs in person to the Department the first week of July 2009. The Department denies receiving this paperwork, but acknowledges receiving a change report regarding employment income for household member Ksenia Malkin in July 2009.

Department workers testified that bank records showing no deposits or withdrawals were provided and nothing regarding income was disclosed at the interview. Department workers testified that Claimant became hostile when they questioned how she was making ends meet with no income for the household. However, the Department did nothing to give Claimant an opportunity to provide verifications following the interview prior to the certification period ending. Policy requires that verifications be requested where information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. Since Claimant was not given an opportunity to provide verifications following the interview and prior to the certification ending, this Administrative Law Judge cannot find she was noncooperative. Therefore it was improper for the Department to allow the benefit period to end and let Claimant's benefits close. If the Department was dissatisfied with the documents provided at the

interview the remedy should have been to request more verification, not to let the certification period end.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was incorrect in the determination of FAP benefits, and it is ORDERED that the department's decision in this regard be and is hereby REVERSED.

Claimant's FAP benefits shall be reinstated and reprocessed back to the date of closure July 31, 2009.



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

Date Signed: 1/20/2010

Date Mailed: 1/20/2010

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.

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