

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201117923
Issue No: [REDACTED]
Case No: [REDACTED]
Hearing Date:
March 17, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on October 25, 2010. After due notice, a telephone hearing was held on March 17, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed Claimant's Food Assistance Program (FAP) case based on failure 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 was receiving FAP at all times pertinent to this hearing. (Hearing Summary).
2. The department mailed Claimant a Verification Checklist on September 3, 2010, requesting verification of income in the form of missing check stubs, earnings statements, employer statements or a Verification of Employment (DHS-38), due by September 13, 2010. (Department Exhibits 2-3).
3. On September 10, 2010, [REDACTED], faxed the department the completed Verification of Employment showing Claimant was employed from April 5, 2010 through May 6, 2010. (Department Exhibits 10-13).

4. On September 20, 2010, [REDACTED] faxed the department the completed Verification of Employment showing Claimant was employed from February 8, 2010 through March 1, 2010. (Department Exhibits 6-9).
5. On October 15, 2010, the department closed Claimant's FAP case for failure to submit the requested verifications effective October 1, 2010. (Department Exhibits 3-6).
6. Claimant submitted a hearing request on October 25, 2010, protesting the denial of her FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications.

The department must assist when necessary. BAM 105. 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 105. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

The department uses the Verification Checklist, DHS-3503, to tell the client what verification is required, how to obtain it and the due date. The client must obtain the

required verification, but the department must assist if they need and request help. BAM 130.

A client is allowed 10 calendar days (or other time limit specified in policy) to provide the verification requested by the department. The department sends 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 130.

Based on information the department received regarding Claimant's employment, the department mailed Claimant a Verification Checklist instructing her to submit verification of employment before September 13, 2010. The department representative stated that verification of employment was not received by September 13, 2010, and the department closed Claimant's FAP case on October 15, 2010, retroactive to October 1, 2010.

Claimant testified that she received the employment verifications and took them to her employers. Claimant stated that Goodwill faxed the verification to the department on September 20, 2010, and Measurement Inc., faxed the verification on September 10, 2010, and she had provided copies of the fax transmissions to the department in addition to duplicate copies of the employment verifications, so she should not have had her FAP benefit case closed.

The department representative was then questioned and admitted that Claimant had provided copies of the employment verifications and fax transmissions on February 15, 2011. Through further questioning it was determined that Claimant's employers had properly faxed the required employment verifications to the correct number at the department. The department representative explained that she did not receive the employment verifications until February 15, 2011, when Claimant gave her the copies, because their mailroom receives thousands of faxes a day.

Notably, the department had this information in the file but did not reference it when presenting their case. Furthermore, while the employment verification from Goodwill was a week late, arriving on September 20, 2010, instead of September 13, 2010, the fact is that the department was in receipt of both employment verifications when they closed Claimant's FAP case on October 15, 2010, retroactive to October 1, 2010.

As a result, this Administrative Law Judge finds that the department improperly closed Claimant's FAP case. Claimant made a reasonable effort to provide timely verification to the department, and in fact the department had the verifications as of September 10, 2010, and September 20, 2010. Because the department closed Claimant's FAP case on October 15, 2010, the case was improperly closed because the department was in receipt of the employment verifications and Claimant should not be penalized because the mailroom did not forward the employment verifications to the case worker.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed Claimant's FAP case for failure to turn in the requested verifications.

Accordingly, the department's determination is REVERSED. The department SHALL immediately reinstate Claimant's FAP benefits to the date of October 1, 2010, and issue any FAP supplement Claimant is otherwise entitled to.

It is SO ORDERED.

/s/


Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan , Director
Department of Human Services

Date Signed: March 22, 2011

Date Mailed: March 22, 2011

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.

VLA 

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