

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: 201123157

Issue No: [REDACTED]

Case No: [REDACTED]

Hearing Date:

April 7, 2011

Mecosta 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 March 1, 2011. After due notice, a telephone hearing was held on April 7, 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 and rent?

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 Food Assistance Program (FAP) benefits at all times pertinent to this hearing. (Hearing Summary).
2. On January 5, 2011, the department mailed Claimant a Verification Checklist, requesting verification of rent in the form of rent receipts, landlord statement, current lease or a Shelter Verification Form (DHS-3688) as well as verification of wages in the form of the last 30 days of check stubs or earning statements, employer statement or a Verification of Employment Form (DHS-38), due by January 7, 2011. (Department Exhibits 4-5).

3. On January 15, 2011, the department mailed Claimant a second Verification Checklist, requesting verification of rent in the form of rent receipts, landlord statement, current lease or a Shelter Verification Form (DHS-3688) as well as verification of November 2010 wages in the form of the last 30 days of check stubs or earning statements, employer statement or a Verification of Employment Form (DHS-38), due by January 25, 2011. (Department Exhibits 6-7).
4. On February 19, 2011, the department mailed Claimant a Notice of Case Action informing Claimant her FAP case was being closed effective April 1, 2011, because Claimant failed to submit the requested verifications. (Department Exhibits 8-9).
5. Claimant submitted a hearing request on March 1, 2011, protesting the closure 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. 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. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Clients must take actions within their ability to obtain verifications. BAM 105.

The department must assist when necessary. 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.

The department mailed out the Verification Checklist on January 5, 2011, requesting verification of her income and rent by January 15, 2011. Claimant only submitted her December 2010 paystubs and a second Verification Checklist was mailed to Claimant on January 15, 2011, requesting her November 2010 paystubs and rental receipts, due January 25, 2011. The department did not receive the requested verification of rent and employment by the due date and mailed Claimant a notice on February 19, 2011, closing her FAP case effective April 1, 2011.

Claimant admitted that she received the Verification Checklist and explained that she does not receive rental receipts and she mailed all her original November 2010 paystubs to the department so she no longer had copies. Claimant testified that her landlord has not been cooperative in filling out the Shelter Verification form in the past, however, Claimant stated that she did send in the Shelter Verification form and obviously they did not receive it so she called and asked for an additional form which she never received. The department had no record of receiving the November 2010 paystubs, or of Claimant's request for an additional Shelter Verification form.

It is noted that the shelter and employment verification due dates were extended from January 15, 2011 to January 25, 2011, and that the department waited until February 19, 2011, to send out the notice of case closure effective April 1, 2011. This Administrative Law Judge finds that Claimant did not make a reasonable effort to provide the requested verifications to the department, especially in light of the fact that the department waited an additional month past the due date to initiate the closure of Claimant's FAP case and then scheduled the effective date for April 1, 2011, giving Claimant an additional 6 weeks to provide the requested documentation, which to date, Claimant has still not provided. Therefore, the department properly closed Claimant's 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 closed Claimant's FAP case for failure to turn in the requested verifications.

Accordingly, the department's determination is UPHELD.

It is SO ORDERED.

/s/

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

Date Signed: April 13, 2011

Date Mailed: April 13, 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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