

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: 20113238

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 9, 2010

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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, 2010. The Claimant appeared and testified. Jenine Overby, Assistance Payments Supervisor appeared on behalf of the Department.

ISSUE

Was the Department correct in closing Claimant's Food Assistance benefits for failing to return 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 a FAP recipient.
- (2) Claimant was sent determination forms on December 15, 2009 with a January 4, 2010 interview date.
- (3) Claimant did not return the redetermination forms and did not call in for the interview.
- (4) Notice of missed interview was sent to Claimant on January 4, 2010.
- (5) Claimant did not receive redetermination forms or notice of missed interview.

- (6) Claimant's FAP benefits were closed on January 31, 2010 for failure to provide verifications.
- (7) Claimant requested a hearing on March 18, 2010 contesting the closure of FAP benefits.
- (8) The Department raised issues with regard to the timeliness of Claimant's request for hearing.

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.

In the present case, Claimant failed to provide the redetermination forms required by Department policy. BAM 130. Claimant credibly testified that she did not receive the redetermination forms and that the forms were sent to her last address despite giving the Department her new address. Claimant credibly testified that she provided her new address to her former caseworker at a meeting in November 2009. Claimant's caseworker, during the time in question, did not appear at the hearing. This Administrative Law Judge cannot find that Claimant refused to cooperate or failed to make a reasonable effort to cooperate; therefore, closure of Claimant's FAP benefits was incorrect and improper.

The Department raised issues with regard to the timeliness of Claimant's hearing request. The Department alleged that the request for hearing was not filed until June. The date on the hearing request and on the Department date stamp is March 18, 2010, within the deadline for requesting a hearing. BAM 210. The Department asserted that

the request was not filed until June 4, 2010 but presented insufficient evidence to support this position.

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 closure of Claimant's FAP benefits. It is ORDERED that the Department's decision is hereby REVERSED. Claimant's FAP benefits shall be reinstated as of the date of closure, and any missed benefits shall be paid to Claimant in the form of a supplement.



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

Date Signed: 12/17/10

Date Mailed: 12/20/10

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.

AM/dj

cc:

