

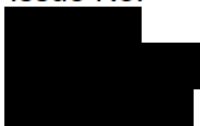
STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201133640

Issue No: 3008



Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "the claimant") request for a hearing received on May 10, 2011. After due notice, a telephone hearing was held on June 7, 2011. The claimant personally appeared and provided testimony. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly close the claimant's Food Assistance Program (FAP) benefits for failure to timely return the required verification?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant was receiving FAP at all times pertinent to this hearing. (Hearing Summary).
2. On February 4, 2011, the claimant submitted a Change Report (DHS 2240), which indicated a change in income due to her husband's recent employment. (Department Exhibit 1)
3. On March 28, 2011, the department mailed the claimant a Verification of Employment (DHS-38) due by April 7, 2011. (Department Exhibit 2)
4. The department received the completed Verification of Employment (DHS-38) on April 14, 2011. (Department Exhibit 2)

5. On May 4, 2011, the department mailed the claimant a Notice of Case Action (DHS 1605), informing her that her FAP benefits would close. (Notice of Case Action)
6. On May 10, 2011, the claimant submitted a hearing request challenging the closure of her FAP benefits for the reason that the claimant telephoned the department case worker and left a message requesting an extension prior to the April 7, 2011 deadline. (Request for a Hearing) The claimant's request for an extension was because she was unable to obtain the verification information from a third party within the 10 day period.

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Clients must take actions within their ability to obtain verifications and DHS staff must assist when necessary. BAM 105. Specifically, the local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105 and BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

Verifications are considered timely if received by the date they are due. BAM 130. For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. BAM 130.

The client might be unable to answer a question about himself or another person whose circumstances must be known. BAM 105. Do not deny eligibility due to failure to cooperate with a verification request by a person **outside** the group. BAM 105.

In the instant case, the claimant is disputing the department's termination of her FAP benefits for failure to provide Verification of Employment (DHS-38) pertaining to her husband's employment. The department sent the claimant the verification of employment form (DHS-38) on March 28, 2011. The claimant's verification forms were due to the department no later than April 7, 2011. The claimant does not dispute that she did not submit the required verification form within the 10 day deadline as the department received the DHS-38 form on April 14, 2011. However, before the due date the claimant called the department and left a telephone message with the department case worker requesting an extension. The claimant was unable to obtain her husband's employment information because the individual responsible for obtaining the information was on vacation. The department case worker did not dispute that claimant called and left a message requesting an extension before the April 7, 2011 deadline.

There is no evidence that the claimant specifically refused to provide the requested verification. Here, the claimant requested an extension because she was unable to provide the requested verification information within the 10 day time period. In order for the claimant to provide the requested verification, she would require the cooperation of a third party. Although BAM 130 prohibits the granting of extension in this circumstance, BAM 105 also indicates that eligibility shall not be denied due to failure to cooperate with a verification request by a person outside the group. Here, it was a third party outside of the group, rather than the claimant, who was responsible for the failure to cooperate with the verification request.

Therefore, this Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department improperly closed Claimant's FAP benefits for failure to timely submit the employment verification form (DHS-38).

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 benefits for failure to timely turn in the requested verifications.

Accordingly, the department's actions are REVERSED. The department shall reinstate the claimant's FAP benefits back to the date of closure and issue the claimant any retroactive benefits she is entitled to receive.

It is SO ORDERED.

/s/ _____
Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/14/11

Date Mailed: 6/14/11

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.

CAP/ds

