

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: 2011-4330
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 15, 2010
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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. After due notice, a telephone hearing was held in [REDACTED] on December 15, 2010. Claimant personally appeared and testified under oath.

The department was represented by [REDACTED] (FIM) and [REDACTED] (ES).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did DHS correctly close claimant's FAP case (November 1, 2010) because claimant was purchasing and preparing her food with her fiancé and claimant failed to verify her fiancé's employment arrangements by the department's due date, as requested?

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 is a former FAP recipient with a household size of three.
- (2) Claimant's fiancé ([REDACTED]) is purchasing and preparing food in claimant's household.

- (3) Claimant reported to the department that her fiancé was employed at Swamp Thing.
- (4) On September 24, 2010, the caseworker sent claimant a Verification of Employment form (DHS-38) requesting information about claimant's fiancé's wages, hours, and other miscellaneous information.
- (5) The due date for returning the completed DHS-38 was October 4, 2010.
- (6) The fiancé's employer was evasive and refused to provide the fiancé with the information requested by the department on the DHS-38. Claimant requested assistance from the caseworker to obtain information required to complete the DHS-38.
- (7) On October 4, 2010, claimant called her caseworker and reported that the employer failed to cooperate. At claimant's request, the department extended the deadline for returning the DHS-related information.
- (8) Claimant did provide some of the information requested on the DHS-38. However, she was unable to provide all of the detailed information requested by the department on the DHS-38.
- (9) Claimant did submit a DHS-38 from her fiancé's employer, but it was not signed by the employer, as required by policy.
- (10) On October 18, 2010, the caseworker put claimant's FAP case into closure due to nonverification of income. A Negative Action Notice was sent to claimant.
- (11) On October 22, 2010, claimant filed a timely hearing request.
- (12) On November 1, 2010, the caseworker closed claimant's FAP case even though claimant filed a timely hearing request (within ten days of the Negative Action Notice).
- (13) The department agreed to restore claimant's FAP benefits forthwith and to reimburse claimant for benefits she lost due to the department's premature closure of her FAP case.
- (14) Claimant made a good faith attempt to provide the requested employment information for her fiancé. However, she was unable to get her fiancé's employer to cooperate with the department's request for employment information.

- (15) The caseworker did not make a good faith effort to get the missing employment information and/or to assist claimant in obtaining the missing employment information.

CONCLUSIONS OF LAW

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Under the department's current policy, assets (PEM 400) and income (PEM 500) must be verified in order to establish eligibility. In addition, any items bearing on eligibility, which the caseworker deems necessary, or which are subject to the department's verification requirements, must be verified. The information requested in this case, proof of income and employment details, and was legitimately required in order to certify FAP benefits with claimant's fiancé in the household. PEM 221, PAM 205, 210 and 220.

PAM/BAM Item 105 states the following:

Customers must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms.

* * *

Based on the evidence of record, the department incorrectly closed claimant's FAP benefit even though she filed a hearing request within 10 days of the Negative Action Notice.

Based on a preponderance of the evidence in the record, the department correctly requested that claimant provide income verification for her fiancé's employment to establish claimant's ongoing food stamp eligibility. Since claimant failed to do this, to the degree of specificity requested by the department, the department correctly closed claimant's FAP case.

While it is unfortunate that the department closed claimant's FAP case prematurely, the department did agree to reimburse claimant for the period of time that her case was illegally closed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly, but prematurely, closed claimant's FAP case due to claimant's failure to provide all of the employment verifications requested by the department on the DHS-38.

Although the Administrative Law Judge acknowledges that the department could have done more to help claimant out, the undersigned Administrative Law Judge has no jurisdiction to award damages or equitable relief.

Therefore, the department's actions are, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 23, 2011

Date Mailed: March 23, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

JWS 

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