

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201118989
Issue No: [REDACTED]
Case No: [REDACTED]
Hearing Date:
March 15, 2011
Genesee 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 February 3, 2011. After due notice, a telephone hearing was held on March 15, 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 end of employment?

FINDINGS OF FACT

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

1. In November 2010, Claimant applied for the Food Assistance Program (FAP).
2. On November 9, 2010, the department mailed Claimant a Verification Checklist, requesting verification of loss of employment in the form of employer statements or a Verification of Employment (DHS-38) due by November 19, 2010. (Department Exhibit 1).
3. On December 10, 2010, the department mailed Claimant a Notice of Case Action informing her that her FAP case would be closed effective January 1, 2011, for failure to submit the requested verifications. (Department Exhibit 3).

4. Claimant submitted a hearing request on February 3, 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. BAM 105. Clients must take actions within their ability to obtain verifications.

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.

Claimant applied for FAP on November 9, 2010. The department mailed Claimant a Verification Checklist instructing her to bring in verification of loss of employment before November 19, 2010. Verification of loss of employment was not received by November 19, 2010, and the department closed her FAP case on December 10, 2010.

Claimant testified that she faxed the requested documentation on November 19, 2010, but for whatever reason the department did not receive the proof of termination, only her last paychecks. When asked, Claimant stated that she had not brought the proof of termination with her to the hearing, but she had it at home. The record was left open to allow Claimant time to return home and fax the proof of termination the following day, in addition to proof she faxed it to the department along with her last paystubs. Claimant failed to provide competent, material or substantial evidence that she had faxed the requested proof of termination to the department, or that she had the requested proof of termination. Therefore, this Administrative Law Judge finds that Claimant did not make a reasonable effort to provide timely verification to the department.

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: March 17, 2011

Date Mailed: March 17, 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.

201118989/VLA

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 [REDACTED]

cc: [REDACTED]