

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

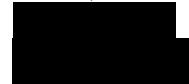
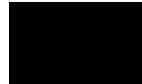


Reg. No:

2011-2261

Issue No:

1005, 3008



Hearing Date: December 14, 2010
Genesee 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 claimant's request for a hearing. After due notice, a telephone hearing was held on December 14, 2010. The claimant appeared and provided testimony and was represented by attorney Alan Tucker.

ISSUE

Did the department properly close the claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) benefits because the claimant was unable to be located?

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 a FIP and FAP recipient when she submitted a State Emergency Relief (SER) request for assistance with an eviction. (Department Exhibit 1)
2. On June 16, 2010, the claimant was mailed a SER Decision Notice (DHS-1419) that indicated she was approved for assistance with a security deposit and first month's rent. (Department Exhibit 3)
3. The claimant was supposed to move into an address on Woodhull Landing in Fenton. However, the owner of the home chose not to rent to the claimant.

4. The SER money that had been disbursed for the claimant's new residence was returned to the department.
5. On June 18, 2010, the department mailed a Shelter Verification form (DHS-3688) to the claimant at the Woodhull Landing address. This was due back to the department by June 28, 2010. (Department Exhibit 5)
6. On August 25, 2010, the department mailed the claimant a Verification Checklist (DHS-3503), requesting the claimant to contact her worker. This was mailed to the Woodhull Landing address. This was returned to sender. (Department Exhibit 6, 8)
7. On September 18, 2010, the department mailed the claimant a Notice of Case Action (DHS-1605) closing the claimant's FIP and FAP for failure to provide required verifications. This notice was mailed to the claimant at the State Road address in Fenton. (Department Exhibit 7)
8. The claimant submitted a hearing request on September 29, 2010.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

Assisting the Client

All Programs

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, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see "**Timeliness Standards**" in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

Send 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, Item 130, p. 4.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

The claimant is disputing the closure of her FIP and FAP benefits. The department representative testified that the claimant's case was closed because the department was unable to locate the claimant. The department mailed the claimant a Verification Checklist (DHS-3503) on August 25, 2010. This notice was mailed to an address in Fenton on Woodhull Landing. The notice was returned to sender.

The claimant testified that she had submitted an SER application for relocation back in June, 2010. The claimant had arranged to move into the Woodhull Landing address in Fenton. However, the claimant testified that she had been unable to move into the residence because the owner of the home had been uncomfortable with her having children in the residence. Therefore, the claimant was never actually able to move in to the address on Woodhull Landing. The claimant testified that she called the department

and informed them of the circumstances and told them she would have to stay at the State Road address (her mother-in-law's house) until she could find something else.

The department confirms that the move did fall through and the SER money that had been paid to the landlord was returned to the department. Thus, it is clear that the department knew or should have known the claimant was not residing at the Woodhull Landing address. However, the Verification Checklist was mailed to the Woodhull Landing address. The Verification Checklist was returned to sender, but the department never mailed it to any other address.

The claimant credibly testified that she had called the department on multiple occasions to indicate that she was going to be staying at the State Road address because she was unable to move to the Woodhull Landing address. Therefore, the department should have known to mail any documents to the State Road address. It is interesting to note that the department mailed the Notice of Case Action (DHS-1605) closing the claimant's case to the proper State Road address. If the department was unable to locate the claimant, they would not have known to address the notice to the claimant at the State Road address. As the department did not mail the Verification Checklist to the proper address, the claimant should not be penalized by having her case closed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed the claimant's FIP and FAP benefits.

Accordingly, the department is REVERSED. The department shall ensure that the claimant's benefits are reopened and reinstated back to the date of closure, issuing the claimant any retroactive benefits that she is entitled to receive. SO ORDERED.

_____/s/_____
Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 2/3/11

Date Mailed: 2/3/11

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 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 receipt date of the rehearing decision.

[REDACTED]