

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
AN [REDACTED]

Reg No. 20112323
Issue No. 3012; 5013
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
November 16, 2010
Washtenaw 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 the claimant's request for a hearing. After due notice, a telephone hearing was held on November 16, 2010. The claimant personally appeared and provided testimony.

The law, MCL 24.278(2) provides that a disposition may be made of a contested case hearing by stipulation or agreed settlement. In this case, the claimant testified that the only request she had was for assistance in paying her electricity bill. The department verified that the claimant had provided a shut-off notice for the electricity. Based on receipt of the shut-off notice, the department agreed to run a redetermination of the claimant's eligibility for State Emergency Relief (SER).

Therefore, it is not necessary for the Administrative Law Judge to decide the SER matter was in dispute.

Pursuant to MAC R 400.906 and 400.903, the claimant's hearing request for SER benefits is HEREBY DISMISSED, because the claimant is no longer aggrieved by a department action.

ISSUE

Did claimant make a reasonable effort to cooperate with the department in determining her FAP eligibility?

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 applied for FAP on September 2, 2010. (Hearing Summary).
2. Claimant was mailed a Verification Checklist (DHS-3503) on September 9, 2010, requesting a rent receipt showing amount, address, landlord, renter, landlord statement, current lease and DHS-3688, Shelter Verification Form. These items were due on 9/20/10. (Department Exhibit 2).
3. Claimant telephoned the department on numerous occasions asking for help in obtaining the requested information and left messages.
4. Since the department did not receive the requested verification, Claimant's application for FAP was denied on September 30, 2010. (Department Exhibit 3).
5. Claimant submitted a hearing request on October 4, 2010 contesting the denial of her FAP application. (ALJ Exhibit 1).
6. On October, 4, 2010, the claimant also submitted a signed letter to department DHS Specialist Ms. Retz, Summons and Complaint for divorce dated August 16, 2010, a Lease Renewal dated August 1, 2010, and the claimant's Resident Payment History from 10/9/09 to 10/1/10. (ALJ Exhibits 2-5.)

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).

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. 10.

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. 2-3.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 3.

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. 5.

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. 5.

In this case, Claimant telephoned the department on numerous occasions asking for help in obtaining the requested information, and despite leaving numerous messages, she did not receive a call back from the department until after she filed the request for a hearing. In addition, Claimant went in person to the office for assistance and was told that they were unable to help her because she had to call her worker. After the claimant's testimony, the department admitted that the claimant had indeed left numerous messages, and the department claimed to have returned the calls stating, "If there was an answering machine, I would have left a message." The department was unable to provide any documentation that the claimant's calls had been returned.

Department policy states that "the local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications." This Administrative Law Judge finds that the claimant made a reasonable effort to ask for help, both by telephone and in person. There is no evidence that the department made any attempts to help the claimant in completing the forms or gathering the verifications. Moreover, the department did not mention the claimant's numerous requests for assistance in presenting their case, initially, and could not provide any documentation, whether from the case file or telephone logs, showing that the department returned the claimant's telephone calls.

In conclusion, this Administrative Law Judge cannot find that Claimant failed to make a reasonable effort to provide verification to determine her FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant made a reasonable effort to provide verification needed to determine her FAP eligibility.

Accordingly, the department's FAP action is **REVERSED**. The department shall:

1. Reprocess the claimant's September 2, 2010 FAP application in accordance with department policy.
2. Issue any retroactive FAP benefits the claimant is otherwise eligible to receive.

3. The Administrative Law Judge, based on the agreed upon settlement, ORDERS that claimant's hearing request for SER benefits is hereby dismissed and the department shall immediately run a redetermination of claimant's eligibility for SER.

SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: November 24, 2010

Date Mailed: November 24, 2010

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.

VLA / 

cc:

