

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED]. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly denied Claimant's Food Assistance Program (FAP) application based on failure to provide requested verifications?

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 [REDACTED]. (Hearing Summary).
2. The department mailed Claimant a Verification Checklist on February 15, 2011, requesting Claimant provide proof of income, self employment income for a member of her group, and proof of home insurance by [REDACTED] (Department Exhibits 1-2).
3. On [REDACTED] the department mailed Claimant a Notice of Case Action informing her that as of [REDACTED] her FAP application was being denied for failure to submit the requested verifications. (Department Exhibits 10-11).
4. Claimant submitted a hearing request on [REDACTED], protesting the denial of her FAP benefits. (Request for a Hearing).

6. At the close of the hearing, the department checked their telephone logs and confirmed that Claimant had called her case worker on [REDACTED] (Department Exhibit 15).

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. Clients must take actions within their ability to obtain verifications. BAM 105.

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. 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.

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. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies within 60 days of the application date. BAM 130.

Claimant testified that she called her case worker a few days before her verifications were due and asked for a return call because she was working on getting her verifications in, but they might be late. Claimant stated that she never received a return call and mailed her verifications in. Claimant testified that she was called by the department approximately a week later and informed that her case worker had gone out on maternity leave. The department had no record of receiving a telephone call from Claimant in the case file.

At the request of the Administrative Law Judge, the department checked their telephone logs and found Claimant had called her case worker on [REDACTED]. The verifications were due [REDACTED], the department mailed Claimant a Notice of Case Action informing her that as of [REDACTED], her FAP application was denied because she failed to provide the necessary verifications. On [REDACTED] the department received the requested verifications and according to the department, did not process the application because Claimant's FAP case had already closed.

In this case, Claimant called her case worker on [REDACTED] to speak with her case worker about possibly turning in her verifications late. The department is required to assist clients who call before the due date and to instruct clients that their application will be denied once the due date passes. BAM 130. The department did not return Claimant's telephone call and there was no record of her call in her case file. Therefore, the department did not comply with their own policy. Notably, Claimant's telephone call was only verified by checking the telephone records.

As a result, this Administrative Law Judge finds that the department improperly closed Claimant's FAP case. Claimant made a reasonable effort to provide timely verification to the department, and called prior to the verification date to tell her case worker the verifications may be late. If the department had followed their own policy and returned Claimant's telephone call to warn Claimant her application would be denied if she missed the due date, Claimant may have been able to turn them in on [REDACTED] the effective date of denial.

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 case for failure to turn in the requested verifications.

Accordingly, the department's eligibility determination is REVERSED. The department SHALL redetermine Claimant's FAP eligibility back to the date of application, and issue any FAP supplement Claimant is otherwise entitled to.

It is SO ORDERED.

/s/ _____
[Redacted Signature]

Date Signed: _____

Date Mailed: _____

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.

[Redacted]