

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-31758

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 27, 2009

Clare County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on August 27, 2009.

ISSUE

Was the claimant's FAP application properly cut off for a failure to provide 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 was an FAP recipient in Clare County.
- (2) On 6-9-09, claimant reported that his wife was no longer working at her previous job, and was instead working at a different job.

(3) On 6-22-09, claimant was sent two verifications of employment—one for the current job, and one for the previous job, to prove that his wife had left that job.

(4) On 7-2-09, claimant returned the verification of employment for the new job.

(5) Claimant was making more money at the new job, and would thus be eligible for fewer benefits.

(6) On 7-7-09, claimant was re-sent a verification of employment for the previous job, and a DHS-3503, Verification Checklist, stating that he had until 7-17-09 to return to provide proof that the previous employment had ceased.

(7) On 7-10-09, claimant left a message for the caseworker asking if the Department really needed proof of the loss of the previous job, indicating that “they do not go around there anymore”.

(8) Claimant’s worker replied that the Department must have written proof of the job loss.

(9) The Department did not send the verification of employment directly to the employer.

(10) Claimant had gone to the previous job site and attempted to get the verification signed, but the employer refused.

(11) On 7-27-09, claimant’s FAP benefits were denied for a failure to return verifications.

(12) On 7-31-09, claimant requested a hearing.

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 Bridges Reference Manual (BRM).

A client must report any changes affecting benefit eligibility within 10 days. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. All sources of income must be verified. BEM 500.

However, while the claimant has the primary responsibility for returning verifications, the caseworker may not deny assistance because an employer or other source refuses to verify income. BEM 500. Furthermore, for FAP purposes, only changes that result in a benefit increase or when change information is unclear, inconsistent or questionable are required to be verified. BEM 500, 505.

If the claimant is unable to obtain verifications, despite a reasonable effort, the caseworker is to use their best judgment in appraising the claimant's claims.

Claimant testified that his wife actually made more money at her new job. More earned income entering the household would normally be a benefit decrease. The Department did not rebut claimant's testimony, or indicate in any way that claimant's reported change would result in a benefit increase. Both BEM's 500 and 505 specifically state that verification of a change is only required when the change would result in a benefit increase. The Department has provided no proof that this is so. Therefore, the claimant was not required to provide verification of the job

change, and the Department was in error when it required claimant to provide information regarding the prior job.

If the claimant had been alleging that his wife had lost the old job, with no corresponding income from her new job, than a benefit increase would be incurred, and the claimant would therefore be required to verify the job loss. However, claimant did not allege a decrease in income; claimant alleged an increase in income, and provided verification to show that, through the employment verification that was returned from the new job. Thus, the Department was in error in requiring further verification.

However, even if the claimant had been required to provide verification of the job loss, the Department was still in error when it cut claimant off of benefits. Department Exhibit 9, Documentation record, shows that the claimant contacted the caseworker, indicating that he had had some trouble securing the verification and questioned whether it was needed. Instead of inquiring as to the trouble, the caseworker only reiterated that claimant must provide the verifications. This message was an obvious indication that claimant was having trouble getting the verification.

The Department is required to assist claimant in obtaining required verifications. BAM 130. The correct course of action at that point was for the Department to send the verification directly to the employer. If the employer did not return the verification, then the Department would have had to use their best judgment—BEM 500 prohibits a negative action for the refusal of an employer to submit a requested verification. Claimant credibly testified at hearing that this was the case in the current situation. Regardless, there was enough evidence in the case record for a reasonable person to reach the conclusion that claimant was having trouble getting the verification, and policy expressly prohibits sanctioning a claimant having these sorts of troubles.

This point, however, is only academic. The fact of the matter is that the claimant was not required to turn in a verification of the loss of the previous job, as there was no benefit increase in the case. The Department was in error for requiring the verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's application for failure to return verifications was incorrect.

Accordingly, the Department's decision in the above-stated matter is, hereby,
REVERSED.

The Department is ORDERED to process claimant's reported change, using the verifications and verbal and written statements provided by the claimant.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 1, 2009

Date Mailed: September 2, 2009

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.

RJC/cv

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cc:

