

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: 2009-3957

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 3, 2009

Jackson 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 March 3, 2009.

ISSUE

Was the claimant's FAP application properly denied for failure to return proper 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 filed a DHS-1171, Assistance Application, for the Food Assistance Program on 9-26-08.
- (2) Claimant was provided a DHS-3503, Verification Checklist.

(3) The verification checklist stated that, among other things, claimant needed to provide a DHS-431, Self-Employment Income and Expense statement.

(4) All other items requested by the verification check list were turned in.

(5) The Self-Employment Income and Expense statement instructs the client to attach proof for all income and expenses.

(6) Claimant filled out the DHS-431, and attached a copy of a spreadsheet he uses to keep track of his construction income. This spreadsheet, while containing figures and notes, does not have any other identifying marks to further identify it as claimant's construction income.

(7) There is no indication that DHS ever asked claimant for further, more specific documents to back up his verifications of self-employment income.

(8) There is no indication that DHS ever told claimant that his spreadsheets were not adequate to prove employment income.

(9) Claimant's income tax returns, bank statements and contractor reports all verify claimant's spreadsheets.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM, Item 500.

All income must be verified. Self-employment income may be verified by business receipts, accounting or other business records, or income tax returns. PEM 500.

Verifications must be turned in within a certain period of time. PAM 130 states:

“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....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.” PAM, Item 130, p. 4

According to the Department, the decision to deny claimant's FAP request was entirely predicated on claimant's failure to provide adequate proof of his self-employment income. All other requested verifications were provided; however, the Department felt that the spreadsheets attached to claimant's self-employment income and expense statement were insufficient to prove claimant's income.

This case however, is interesting, not for the proof that has been attached, but rather, for what specifically the department has not proven: any indication that the claimant was told that his spreadsheets were insufficient. PEM 500 specifically states that “accounting or other business records” are appropriate for verifying self-employment income. Claimant testified that the attached spreadsheets were the records he kept in the normal course of his business for his self-employment income. Furthermore, the self-employment and income expense statement merely asked for proof of income, without specifying what those proofs might be. It is therefore reasonable that a person unfamiliar with Department policy might have felt that the spreadsheets

were sufficient when, absent some sort of independent verification source such as bank statements, they were clearly not.

Additionally, PAM 130 states that a claimant usually has 10 days to provide verifications, but the time limit may be extended if the claimant has trouble providing verifications. A negative action notice may only be sent if the claimant refuses to provide verifications, or the time limit had elapsed and the claimant has not made a reasonable effort to provide the verifications.

Claimant clearly did not refuse to provide verifications. According to the Department's own testimony, claimant provided everything but some sort of independent verification regarding his self-employment income, attaching proof that he thought would be sufficient, and therefore passed the first prong of the test. Furthermore, while the time limit did elapse, claimant did make a reasonable attempt to provide the requested verifications. He filled out all the paperwork the Department requested, and gave them his business records. If the business records were inadequate for the Department's purposes, the Department should have contacted claimant, requested an independent source, and extended the time limit in accordance with PAM 130. Claimant therefore passed the second prong of the test, and thus a negative action notice should not have been sent.

While the Department states in their hearing summary, Department Exhibit 1, that claimant should have provided copies of accepted bids, receipts showing amounts received, copies of checks, etc., there is no proof in the record that the Department ever requested these specific items from the claimant. Given the amount of evidence claimant submitted at hearing verifying his spreadsheets, it appears to this Administrative Law Judge that the verifications were out there, had the Department simply asked for them. Given that an option for bank statements appears on the verification checklist, but the option was not marked, and given that these bank

statements would have verified claimant's spreadsheets, the undersigned can only conclude that claimant cooperated with the Department to the fullest extent possible, and the denial of his application was in error.

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 FAP application based upon the failure to provide requested verifications was incorrect.

Accordingly, the Department's decision is, hereby, REVERSED.

The Department is ORDERED to process claimant's Food Assistance Program request retroactively to the date of application, using the application already on file and the income verifications provided both at the time of application and during the hearing process, in accordance with the Program Eligibility Manual.

/s/

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

Date Signed: March 12, 2009

Date Mailed: March 13, 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

cc:

