

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: 2009-7626  
Issue No: [REDACTED]  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
March 4, 2009  
Tuscola County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 4, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly process Claimant's reported income change?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) On October 31, 2008, claimant ended her employment.
- (2) On November 5, 2008, claimant called her caseworker and reported she was no longer working.

(3) On November 5, 2008, claimant was sent a Verification Checklist (DHS Form 3503) and Verification of Employment (DHS Form 38) that was due back to the department on November 15, 2008.

(4) Claimant dropped of the Verification of Employment (DHS Form 38) at her former employer's several days before it was due back to the department.

(5) On December 3, 2008, claimant did not have an increased amount of Food Assistance Program (FAP) benefits in her EBT account.

(6) On December 4, 2008, claimant called the DHS caseworker and inquired about why she did not have an increase in Food Assistance Program (FAP) benefits.

(7) On December 5 and 8, 2008, the DHS caseworker spoke to claimant's former employer by telephone and got verbal confirmation that claimant was no longer employed and had not been fired.

(8) On December 8, 2008, the department of Human Services caseworker ran an updated financial eligibility budget for claimant's Food Assistance Program (FAP) benefits. The increase in claimant's benefits was to be effective on January 1, 2009.

(9) On December 12, 2008, claimant submitted a request for 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

None of the above facts are disputed. Claimant requested a hearing because she feels her Food Assistance Program (FAP) benefits should have been increased sooner. Claimant asserts she did everything she could and that she should not be penalized because the former employer did not fill out the Verification of Employment (DHS Form 38) and return it to the Department.

Department policy provides the following guidance for case workers. The department's policies are available on the internet through the department's website.

## **PAM 220 CASE ACTIONS**

### **DEPARTMENT POLICY All Programs**

You must process the following case actions:

- Initial applications and reapplications (PAM 115).
- Redeterminations (PAM 210).
- Reinstatements (PAM 205).

You must evaluate each change reported to determine if it affects eligibility.

Changes in circumstances may be reported by the client, via computer tape matches, through quality assurance (QA) reviews, or by other means.

Classify any change in benefits as either a positive or negative action and input on CIMS or ASSIST.

A **positive action** is a DHS action to approve an application or increase a benefit.

A **negative action** is a DHS action to deny an application or to reduce, suspend or terminate a benefit. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement.

### **STANDARDS OF PROMPTNESS All Programs**

The **standard of promptness** (SOP) is the maximum time allowed to complete a required case action. Cases should be processed as quickly as possible. The SOP sometimes varies by program.

**Change Reported Via Tape Matches  
All Programs**

Case actions resulting from changes reported via tape match (BENDEX, SDX, MESC Wage, MESC UCB, IRS, enumeration, etc.) must be completed within 45 days of receiving the information.

**All Other Reported Changes  
FIP, SDA, CDC, MA and AMP**

You must act on a change reported by means other than a tape match within 15 workdays after you are aware of the change.

**FAP Only**

You must act on a change reported by means other than a tape match within 10 days after you are aware of the change.

**Benefit Increases:** Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned.

**Example:** Rich reports on 3-23 that he now has a shelter expense. You must act on the change by 4-2. May's benefits will be the first month affected because the 10th day after the change is reported falls in the next benefit period. You may affect the April issuance if you can complete the action by 3-31.

If verification is required or deemed necessary you must allow the household 10 days from the date the change is reported to provide the verification. The change must still affect the correct issuance month, ie., the month after the month in which the 10th day after the change occurs.

**Example:** Rich reports a shelter change on 3-21. You request verification of his new shelter obligation on 3-23. Rich provides

the verification on 4-2. You must make the change to affect April's benefits, by using a supplemental issuance.

If verification is required or deemed necessary but the client fails to return the verification within 10 days after the change was reported, but does provide the verification at a later date, you must act on the change within 10 days after the verification is provided.

**Example:** Using the previous example, Rich does not supply the shelter verification until 4-6. You must act on the change by 4-16 to affect May's benefits. No supplement is issued for April, due to Rich's failure to return the verification within 10 days.

## **PAM 130 VERIFICATION AND COLLATERAL CONTACTS**

### **DEPARTMENT POLICY All Programs**

**Verification** means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. PEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

### **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.

The client must obtain required verification, but you must assist if they need and request help. If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

**Timeliness of Verifications  
CDC, FIP, FAP**

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.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission is the receipt date.

Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

**PEM 505 PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING**

**WHEN TO COMPLETE A BUDGET FIP, SDA, CDC, FAP**

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- The Department is made aware of or the client reports a change in income that will affect eligibility or benefit level, or
- A reported change results in the need to convert income to or from a standard monthly amount.

**Income Decrease**

**FAP**

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. Do **not** process a change for a month earlier than

the month the change occurred. A supplement may be necessary in some cases.

**Example 1:** On 10/17, the client reports she will miss one week of work in November due to her son's surgery so will not receive a paycheck on 11/19. On 10/21, client returns required verifications. Complete a budget to increase November benefits, reflecting zero income for 11/19. Complete another budget for December, using a full month's income since the income change will only affect November.

**Example 2:** On 11/18, Jan reports there will be a permanent reduction in work hours starting 11/23. Verifications are returned 11/26. Complete a budget to affect December benefits.

If verification is required or deemed necessary, you must allow the household 10 days from the date the change is reported or the date you request verification to provide verification. The change must still affect the correct issuance month i.e., the month after the month in which the 10th day after the change is reported.

**Example 3:** Using the previous example, you request verification on 11/25. Jan provides the verification on 12/2. You must make the change to affect December's benefits by issuing a supplement.

If necessary verification is not returned by the due date, put the case into negative action. If verification is returned late, but before case closure, you must act within 10 days from the date the verification is returned. The increase must affect no later than the first allotment issued 10 days after the date the verification was returned.

**Example 4:** Using the same example, Jan fails to provide the verifications by the requested due date. On 11/28, the case is put into negative action to close. Jan provides the requested verification on 12/7, before the negative action pending period has expired. You must act on the change within 10 days from the date the verification is returned to affect January's benefits.

In accordance with the department policy cited above, the case worker was required to obtain verification of claimant's reduced income.

In accordance with the department policy cited above, the caseworker allowed 10 days for the return of the Verification of Employment (DHS Form 38).

In accordance with the department policy cited above, the caseworker assisted claimant in obtaining the verification as soon as he was made aware there was a problem obtaining it. Claimant called the worker on December 4, asking why her benefits had increased. On December 5, the worker began telephoning the former employer.

In accordance with the department policy cited above, on December 8, the worker used verbal verification from the former employer and processed the change to affect the next month's benefits.

The department followed its policy in processing claimant's change. The delay in receiving the required verification may not have been Claimant's fault. However, nothing prevented claimant from checking up on the verification and contacting the caseworker sooner. Those actions might have resulted in the change occurring sooner.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly processed Claimant's reported income change.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHHELD.

/s/ \_\_\_\_\_  
Gary F. Heisler  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: March 9, 2009

Date Mailed: March 10, 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.

[REDACTED]

cc:

[REDACTED]