

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-44421
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 18, 2010
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 August 18, 2010. The claimant appeared and testified. [REDACTED], Program Manager, and [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the claimant's FAP application properly denied for a failure to return verification of loss of employment?

FINDINGS OF FACT

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

- 1) The Claimant applied for Food Assistance and FIP Cash Assistance benefits in December 2009 and was sent a verification checklist by the Department on January 9, 2010. Exhibit 1
- 2) The verification checklist requested that the claimant provide the Department proof of non heat electric expense, heat expense, verification of loss of employment and verification of wages salaries for the last 30 days check stubs or earning statements. Exhibit 1
- 3) The verification checklist required the claimant respond on or before January 19, 2010.

- 4) Claimant was sent a Notice of Case Action dated February 2, 2010 which denied her application for FIP cash assistance. The reason for the application denial was the failure of the claimant to attend the Jet Program. Exhibit 2
- 5) On June 1, 2010 almost six months after filing the application, the Claimant received an Application Notice denying the Claimant FAP benefits for failure to provide the Department with information needed to determine eligibility. Exhibit 3
- 6) On January 19, 2010 (within the time for verification) the Claimant provided much of the information requested, which included advising the department in writing that her status had changed advising the department that she was still waiting for a copy of her divorce decree from the court, she provided a notarized letter confirming her child support, and advised the department that her former employer was not cooperating with her in completing the ending of her employment verification form which had been requested by the claimant of her former employer.
- 7) The claimant also advised the department that she had completed her Fast/FSSP questionnaire and provided her identification number.
- 8) The claimant also filled out a Change Report advising the department that her employment had stopped dated January 14, 2009.
- 9) Claimant had no check stubs but otherwise verified her wages on February 1, 2010.
- 10) The Claimant was assigned to attend the Jet Program but did not attend Jet because she began employment on February 1, 2010. The Claimant advised her casework of her start of work and that she would not attend Jet.
- 11) The Department received verification of the Claimant's employment on February 10, 2010 while her FAP application was still open and had not been denied. It is unclear from the record whether the Claimant began working full time.
- 12) The Claimant requested a hearing on June 20, 2010 which was received by the Department on June 22, 2010 protesting the denial of her benefits and that she was not notified that further information was required to be submitted by her.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Program Reference Manual (PRM).

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. An application that remains incomplete may be denied. BAM 130. If the claimant cannot provide verification despite a reasonable effort, the time limit is to be extended at least one time. BAM 130. Income amounts can be verified through pay check stubs, a DHS-38, Verification of Employment, or through electronic methods. BEM 501.

With regard to the Claimant's FIP case it appears that it was closed because she failed to attend the JET program. It appears that the closure may have been appropriate as the Claimant began working and thus would not be attending the Jet Program, provided she was working full time. As this information that the Claimant was working as of February 1, 2010, was inconsistent with the previous information known to the Department, and indicated a change in circumstance it too should have been investigated to determine whether, notwithstanding the fact that the Claimant was working, depending upon her income she may have been eligible for benefits. However, the Notice of Case action was mailed February 2, 2010 and the Claimant did not file a request for a hearing regarding the FIP application within 90 days of the application denial and thus there is no jurisdiction to hear this issue. Under Bridges Administrative Manual Item 600, clients have the right to a hearing if requested within 90 days of the written notice of case action. BAM 600, page 4.

With regard to the claimant's FAP case, the undersigned notes that the Department did send verification requests to the claimant and that the claimant did return much of the requested information and provided a letter within in the time for responding explaining her efforts to obtain the loss of employment information and the reasons she was unsuccessful. It does not appear that the Department made an effort to assist the Claimant in reaching the claimant's former employer. Additionally, it does not appear that the Department sent a subsequent request for verification after the claimant advised the department that she had begun working on February 1, 2010.

Policy permits several different types of verification, because policy recognizes that not every client will be able to meet the verification requirements in the exact same way. When as here an employer is uncooperative, the Department should not terminate an application. BEM501 page 6.

In the current case, claimant testified quite credibly that she did not have all her pay check stubs, but did have bank records which were not requested by the Department. The claimant was a babysitter and self employed. Further after the Claimant began working in February the Department should have reevaluated the Claimant's FAP application in any event to determine whether she was eligible in light of the fact she was working. The Claimant testified credibly that she advised her case worker when she began working.

The department, based upon the evidence it presented at the hearing did not demonstrate non compliance with the verification request, but rather the record demonstrated reasonable and good faith efforts to comply. Under these circumstances the Department is required not only to assist the client, but when neither the Department or the client can obtain the information, despite reasonable effort, the best information available must be used and the Department representative is required to use their best judgment. BAM 130 page 3. This clearly was not done, instead, the application was simply denied. The Department had information furing the pendency of the Claimant's application that the claimant was no longer working and then that the Claimant began working as of February 1, 2010.

Under these circumstances, the best judgment was not utilized initially and the case was closed prematurely, rather than pending the case and further investigating. BAM 130 states that if the claimant cannot provide verification despite a reasonable effort, extend the time limit at least one time. Claimant had sent in all that she had—quite clearly a reasonable effort at providing verification. However, the Department, instead of further extending the time limit and requesting alternate verification, or accepting the Claimant's information instead denied the application. This is prohibited by BAM 130.

When a claimant has made a reasonable attempt at providing verifications, the Department may not simply state that the verifications were inadequate and deny the

application. It does not appear that any real exercise of best judgment was made, rather the Department simply denied the application, and as such, the FAP application denial was incorrect. Additionally, the Department's failure to further address the status of the Claimant's FAP application which was pending from September 2009 until June 2010 is unexplained and appears that the matter of the Claimant's application fell through the cracks.

Based upon the foregoing it is determined that the Department improperly denied the Claimant's FAP application and the application must be reinstated retroactive to the date of application in December 2009. The Department must determine the Claimant's FAP eligibility and retroactively supplement the Claimant for any FAP benefits the claimant was otherwise entitled to receive.


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 was incorrect and is hereby REVERSED. The Claimant's FIP application and any hearing with regard to it is dismissed as there is no hearing request regarding this issue and the current hearing request is more that 90 days from the denial of the Claimant's FIP application.

The Claimant's protest of the denial of her FIP application is hereby DISMISSED for lack of jurisdiction as it was not filed within 90 days of the Department's determination denying the FIP application.

With regard to the Department's denial of the Claimant's FAP application the Department is, hereby, REVERSED.

The Department is ORDERED to reinstate the Claimant's FAP application retroactive to the application date and to determine the claimant's FAP eligibility for FAP benefits in accordance with Department Policy and to issues supplements for FAP benefits to the Claimant for any benefits she is deemed otherwise eligible to receive.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 8/26/2010

201044421/LMF

Date Mailed: 8/26/2010

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 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 of the rehearing decision.

LMF/jlg

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