

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.: 2010-18726
Issue No.: 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 18, 2010
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on March 18, 2010. Claimant appeared and testified. [REDACTED]
[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS properly denied Claimant Food Assistance Program (FAP) benefits due to failure to cooperate in providing income verification?

FINDINGS OF FACT

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

1. On December 23, 2009, Claimant applied for FAP benefits for herself and her son, [REDACTED].
2. Claimant's son was employed at [REDACTED] on November 1, 2009, and was continuously employed there during the nine-week period of November 1, 2009-January 2, 2010.
3. Claimant produced six of her son's paystubs, showing gross income, and her son's bank statement, showing three net income direct deposits, for the nine-week period.
4. DHS denied Claimant's FAP Application because the documents submitted did not reflect thirty consecutive days of gross income.
5. Claimant made every effort to obtain the best available information.
6. At the March 18, 2010, hearing, Claimant presented gross wage information for her son for the three weeks for which she previously provided only net income information.
7. Claimant requested a hearing by written Notice to DHS on January 29, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP), formerly known as the Food Stamp program, was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. The DHS FAP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

In this case, DHS denied Claimant's FAP benefits because she did not provide thirty consecutive days of gross income information for a group member, her son, Wendell Bush.

Under BAM 105, customers must cooperate with the local DHS office in determining initial and ongoing eligibility. This includes completing necessary forms. Customers must take actions within their ability to obtain verification. The local DHS office must assist customers who ask for help in completing forms or gathering verification. Particular sensitivity must be shown to customers who are illiterate, disabled, or not fluent in English. DHS must allow the client ten calendar days (or other time limit specified in policy) to provide the requested verification. BAM 105, pp. 5, 8 and 10; BAM 115, p. 4.

If the client cannot provide verification despite a reasonable effort, DHS must extend the time limit at least once. DHS is to send a negative action notice when (1) the client indicates a refusal to provide a verification, or (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. Only adequate notice is required for denial of an application. If there is a discrepancy between the information from a third-party source and the information from the client, DHS must give the client a reasonable opportunity to resolve the discrepancy before determining eligibility. BAM 130, pp. 5-6.

DHS is required to send a timely notice of a negative action, such as a denial, at least eleven days before the intended negative action is scheduled to take effect. The negative action is held in abeyance to provide the customer a chance to react to the proposed action. BAM 220, p. 4.

BAM 130, "Obtaining Verification – All TOA [Types of Assistance]," states:

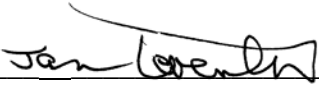
Tell the client what verification is required, how to obtain it, and the due date...If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If

no evidence is available, use your best judgment. BAM 130, pp. 2-3. (Bold print in original).

I find that Claimant made a reasonable effort to get the best information, and she provided what she was able to obtain to DHS. I find Claimant cooperated. I find she provided acceptable verification of her son's income. DHS could have used the net income, or, adjudged the net income information as equivalent to no information at all, and used their best judgment to arrive at Claimant's son's income. In any event, as Claimant was eventually able to obtain the necessary gross income data and submitted it at the hearing, DHS is now in possession of exactly what it needs to determine Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that DHS is REVERSED. The Department is Ordered to initiate a redetermination of Claimant's eligibility for FAP benefits in accordance with applicable law and policy.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 30, 2010

Date Mailed: April 2, 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 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JL/pf

cc:

