

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: 2010-20281
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 24, 2010
Houghton County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 three-way telephone hearing was held March 24, 2010.

ISSUE

Whether the Claimant cooperated with the Department of Human Services (Department) in submitting verification needed to determine her eligibility for Food Assistance Program (FAP) benefits?

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 receives FAP benefits.
- (2) On November 9, 2009, the Department sent a Verification Of Employment (DHS-38) form to the Claimant with a return date of November 19, 2009. Department Exhibits 4 – 5.

(3) On November 10, 2009, the Department sent a Verification Checklist (DHS-3503) to the Claimant, which requested verification of wages, salaries, tips, and commissions for the Claimant. Department Exhibits 15 - 16.

(4) On November 16, the Department received a U.S. Individual Income Tax Return 2008 (Form 1040) for the Claimant. Claimant Exhibit A, 7 pages.

(5) On November 25, 2009, the Department sent a Authorization To Release Information (DHS-27) to [REDACTED]

[REDACTED]. This form was not returned. Department Exhibit 3.

(6) On December 16, 2009, the Department sent notice to the Claimant that her FAP benefits had been closed. Department Exhibits 18 – 21.

(7) On February 1, 2010, the Department received Claimant’s request for a hearing, protesting the closure of her FAP benefits. Department Exhibit 1.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned

income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2.

Clients are allowed ten calendar days to provide the verifications requested by the Department. BAM 130, p. 4. If the client cannot provide the verification despite a reasonable

effort, the time limit should be extended no more than once. BAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 4.

In this case, the Department made two separate attempts to verify Claimant's income. The Department sent forms that would have verified Claimant's income to an alleged employer, and to the Claimant herself. Neither of these forms was returned with the information requested by the Department. The Department gave the Claimant notice that if proof of her income was not received by November 20, 2009, her benefits could be denied. On December 16, 2009, the Department gave the Claimant notice that her FAP benefits were closed.

The Claimant's authorized representative argued that proof of Claimant's income was provided to the Department in a timely manner. Claimant had submitted a page from her 2008 Federal Tax Return as proof of her income. Claimant's authorized representative argued that because this was sufficient verification to support a FAP allotment in the past, it should have been sufficient for continued FAP involvement.

However, the sufficiency of verification documents for previous FAP allotment periods is not relevant in this case. The only relevant issue in this case is whether the Claimant made a reasonable effort to cooperate as it relates to the closure of her FAP benefits on December 16, 2009.

I find that the page from Claimant's 2008 Federal Tax Return does not satisfy the request for proofs contained within the Verification Checklist sent by the Department on November 10, 2009. This Verification Checklist requests proof of income for the previous 30 days. Claimant's 2008 Federal Tax Return does not satisfy this request.

This Administrative Law Judge finds that the Claimant has not made a reasonable effort to provide the Department with proof of her current income. The Department established that it acted in accordance with policy in terminating Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in terminating Claimant's FAP benefits.

The Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 30, 2010

Date Mailed: March 30, 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 date of the rehearing decision.

KS/vmc

cc:

