STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: █████████,

Claimant

Reg. No.:   2010-24590
Issue No.: 3008
Case No.:   ██████
Load No.:   ██████
Hearing Date:
March 31, 2010
Wayne County DHS (15)

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 31, 2010. Claimant appeared and testified. ████████████████████████, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits based on her failure to verify income?

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 or before September 1, 2009, Claimant began receiving FAP benefits.

2.   On September 30, 2009, Claimant began working at ████████████████.

3. Claimant called her case worker to inform her of her new job and left a voice mail message, but did not receive a return call from her case worker.

4. On October 14, 2009, Claimant received her first paycheck.

5. On or about October 16, 2009, Claimant submitted to DHS a DHS Change Report Form DHS-2240 and attached her first and only paystub to the form. The time stamp on the form is October 28, 2009.

6. On November 10, 2009, DHS sent a Verification Checklist cover letter and a Verification of Employment Form to Claimant. The cover letter asked for employer verification of employment and stated, "Please provide additional information about missing check stubs." The cover letter advised Claimant to call her Specialist with questions or problems and it set a deadline of November 20, 2009, for Claimant to submit the requested documents.

7. Claimant was never asked to provide subsequent check stubs.

8. Claimant did not receive DHS' November 10, 2009, letter at the time it was first sent to her.

9. In November, 2009, Claimant called DHS to make an appointment to apply for cash assistance, but her call was not returned.

10. Claimant called her caseworker several times to make sure that everything was okay with her case, but her caseworker never returned the calls.

11. Claimant also called her caseworker numerous times but could not leave a voicemail message because the caseworker's mailbox was full and would not accept messages.

12.   Claimant on one occasion waited 4-6 hours to see her case worker for an appointment but the worker was not even in the office.

13.   Before Christmas, 2009, Claimant visited the DHS office on numerous occasions to make an appointment to see her caseworker, but received no response.

14.   Claimant did not receive any paperwork from DHS until February 19, 2010.

15.   On February 19, 2010, Claimant received a Notice of Case Action dated February 13, 2010, terminating her FAP benefits effective March 1, 2010.

16.   Also on February 19, 2010, Claimant requested a hearing in a written Notice to DHS.

17.   Claimant sent a letter stating that it took over two years for the DHS office to fix an error in her Social Security Number and that, on numerous occasions, important DHS mail was sent to her old address.   The letter is time-stamped February 23, 2010.

18.   On March 1, 2010, DHS reprinted the November 10, 2009, letter and Verification of Employment form and sent them again to Claimant. The verification was due November 20, 2009 (sic).

19.   On or about March 30, 2010, Claimant provided to DHS nine ████████ paystubs for October-December, 2009, a ████████ printout of all wages paid, Verification of Employment Form DHS-38 from ████████, and Verification of Employment Form DHS-38 from her current employer, ████████.

CONCLUSIONS OF LAW

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. DHS' FAP policies are also found in the Bridges

Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables

Manual (RFT). These manuals are available online at www.mich.gov.

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 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.
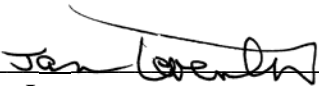
Based on my findings of fact and the BAM sections above, I conclude that Claimant did

not refuse to cooperate with DHS. I am persuaded that, if she had received the verification

request in November, 2009, she would have responded with due diligence and thoroughness and in a timely fashion. I am persuaded of this based on Claimant's vigorous attempts to communicate with DHS over a two-year period. Claimant made repeated efforts to correct her Social Security Number and advise DHS of her current address, she called and visited the office on many occasions and got no response, and she received no response to her call requesting to apply for additional benefits in the FIP program. When DHS sent to her a second request for verification, she supplied the agency with nine paystubs, a complete pay record from ██████████, and verifications from two employers.

I conclude that the DHS action is, therefore, erroneous and shall be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS' termination of Claimant's FAP benefits is REVERSED. DHS is Ordered to initiate a redetermination of Claimant's eligibility for FAP benefits and provide any sums to Claimant to which she is entitled retroactively to March 1, 2010, in accordance with applicable law and policy.

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

Date Signed: April 9, 2010

Date Mailed: April 12, 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.

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: ████████████████████
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    ████████████