

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

IN THE MATTER OF:



Reg. No: 201028312

Issue No: 3008;6015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 27, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 May 27, 2010.

ISSUE

Was the claimant's FAP and CDC application properly denied for a failure to return sufficient verifications?

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 applied for FAP and CDC in Wayne County.
- (2) Claimant returned her verifications of income for the FAP and CDC program.
- (3) Claimant stated, during the interview, that she worked a day shift at her place of employment, where she was employed as a private contractor.

- (4) On her CDC verifications, she listed hours in the afternoon.
- (5) The Department felt that this was a discrepancy.
- (6) Claimant stated, during the interview, that she had expenses of \$200 weekly.
- (7) On her verifications, the listed expenses were at \$200 monthly.
- (8) The Department felt that this was a discrepancy.
- (9) The Department did nothing to resolve the perceived discrepancies.
- (10) The Department did not request other verifications, nor did the Department attempt collateral contacts to resolve the perceived discrepancies.
- (11) Claimant was not contacted to resolve the perceived discrepancies.
- (12) The Department had all information necessary to determine eligibility.
- (13) Claimant's FAP and CDC applications were denied on March 8, 2010, for verification discrepancies.
- (14) On March 17, 2010, claimant requested a 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

An application or redetermination is considered incomplete until it contains enough information to determine eligibility. BAM 115. 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. Before determining eligibility, the Department must give the claimant a reasonable opportunity to resolve any discrepancies between statements and another source. BAM 130.

After a review of the documentary evidence provided, the undersigned sees no discrepancies within claimant's verifications. Claimant's provided verifications are consistent with regard to monthly income and monthly expenses from self-employment. They are consistent with regard to work hours. The undersigned sees no reason that the Department could not determine eligibility from the verifications provided.

The Department argued that the discrepancy was between claimant's statements at the interview and the verifications provided—however, verifications are provided specifically to verify a claimant's interview statements. BAM 130. Regardless of claimant's statements at interview, the Department is to use the information provided within the verifications. The Department, by not accepting the provided verifications, was essentially asking for the claimant to verify her own verification, which is impossible. Verifications exist so that the Department may examine the truthfulness of a claimant's interview statements; the Department, once it has accepted verifications, may not request verifications of those verifications.

Furthermore, if the Department was concerned about discrepancies, it did nothing to resolve those discrepancies. BAM 130 specifically states that the Department must allow a claimant reasonable opportunity to resolve a discrepancy between statements and another source. In this context, another source would indicate some third party—for instance, claimant has submitted receipts for expenses, but a collateral contact submitted records that showed the claimant had far different expense than the ones listed.

However, even if the Administrative Law Judge allowed a discrepancy to mean a claimant's interview statements and her own subsequent verification of those interview statements—an allowance which, if practiced across the Department would essentially mean that every case would require two sets of verifications, given the sheer number of discrepancies between initial applications and subsequent verifications—the fact remains that the Department, by its own admission, did nothing to resolve those discrepancies. Claimant was not contacted; collateral contacts were not made, nor

were further verifications requested. Claimant's application was simply determined to have discrepancies, and then denied out of hand. This is not supported by policy; if the Department has further questions relating to eligibility, then the Department should ask those further questions, and not simply deny the application.

This is, of course, assuming that there were discrepancies—there were not. Claimant's returned verifications were sufficient to determine eligibility. Therefore, the Department was in error when it refused to process claimant's FAP and CDC applications.

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 and CDC application was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to process claimant's FAP and CDC case retroactively to date of application.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/26/10

Date Mailed: 08/27/10

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.

RJC/dj

cc:

