

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: 20103480
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 19, 2009
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 November 19, 2009.

ISSUE

Was the claimant's FAP properly placed into closure for a failure to return 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 was an FAP recipient in Wayne County.
- (2) Client was up for case redetermination in May, 2009.
- (3) Claimant was sent a DHS-3688, Shelter verification, with instructions to return the completed form.
- (4) Claimant returned this form in May.

- (5) The Department ruled that this verification was incomplete.
- (6) Claimant tried to contact the Department to find out what needed to be completed on the form, and was not given an answer.
- (7) The Department then proceeded to lose this form.
- (8) Claimant was sent another verification form on June 3, 2009.
- (9) Claimant returned this form on June 10, 2009.
- (10) This form contained a statement of claimant's monthly rent obligation, but no address of the rental unit in question.
- (11) This form was ruled incomplete by the Department.
- (12) Claimant attempted to contact the Department several times to find out what was wrong with the turned in form, but got no reply, or any answers to his questions.
- (13) On July 21, 2009, claimant was sent a third verification form.
- (14) Claimant returned this form on July 31, 2009.
- (15) This form contained the rental amount and the address of the rental unit, but did not contain the address of the landlord.
- (16) This form was ruled incomplete.
- (17) Shortly after, claimant returned yet another verification form, containing the address of the landlord.
- (18) Claimant's FAP case, while not placed into closure, had the housing expense denied for the months of May and June.
- (19) This resulted in claimant's FAP allotment being reduced to \$16 for those months, instead of \$200.

- (20) On October 15, 2009, claimant requested a hearing, alleging that he had provided the Department with all required documents, and that the Department would not tell him what the Department needed in order to establish eligibility.

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).

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.

The client must obtain required verification, but the caseworker **must** assist if they need and request help. BAM 130.

Claimant testified that he returned a DHS-3688 in May, which had been completed. The Department was given time to locate this form, but was unable to do so. The Administrative Law Judge, given the fact that the Department routinely loses paperwork, and claimant's insistence that a form was turned in during the month of May, finds claimant's testimony that a

form was turned in during this time credible. Also lending weight in the claimant's favor is the fact that the Department sent out a DHS-3503, Verification Checklist, on June 3, 2009, requesting a completed shelter verification form. The first checklist was sent out in March, and the DHS-3688 was not returned in a usable format.

The undersigned finds it hard to believe that if the Department received an incomplete form in March, it would have waited 3 months to send another form to request clarification. Given claimant was absolutely adamant that he had returned a DHS-3688 in May, 2009, the undersigned believes that the Department sent claimant another shelter verification in the time between March and June, claimant returned this form, and then the Department subsequently lost the form.

As the paper was in the Department's possession, the Department had the responsibility to produce the form. The Department's inability to produce the DHS-3688 means that the contents of that form shall be held against the Department, and in a light most favorable to the claimant. The light most favorable to the claimant is that the form was completed and contained all necessary information to determine eligibility. Therefore, the undersigned holds that the claimant turned in all required verifications, and the Department was in error when it did not accept these verifications.

However, the undersigned will also note that even if the DHS-3688 was incorrect or incomplete, the case would still require a reversal. The claimant received notification that stated his housing expenses would not be deducted if he failed to provide verifications. As far as claimant was aware, he had provided all necessary verifications. This notice was silent as to what claimant needed to provide.

BAM 554 states that, at minimum, a shelter expense must contain the address of the shelter and the rental/expense amount. However, claimant was unaware of this requirement, and his verifications, as requested in June, contained the rental amount and a signature by the landlord, which one could reasonably assume was enough for verification purposes. When claimant attempted to contact the Department, he was unable to make contact with anybody who could tell him what he needed to do. Claimant's caseworker did not return his phone calls, and in-person visits to the Department were unsuccessful. Claimant conducted himself with all due diligence of a person facing a reduction of benefits—it was the Department that failed to help him correct any problem, though that problem may have indeed been significant.

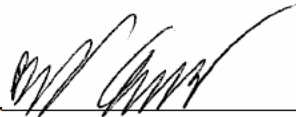
The undersigned is not in the habit of deciding that a claimant failed to return verifications when the Department would not notify the claimant of what verifications were needed. BAM 130 specifically directs the Department to assist any client who requests help in securing verifications. This would, presumably, include inquiries into what a verification form needed to be considered complete. The Department did not render assistance when required. Therefore, even if claimant's DHS-36888 was incomplete, and the undersigned was not holding the lost form against the Department, the Department would still be incorrect, and their actions would require a reversal.

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 reduce claimant's FAP allotment to \$16 was incorrect.

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

The Department is ORDERED to re-calculate claimant's FAP allotment for the months of May and June, 2009, taking into account claimant's housing and shelter expenses, which are already in the possession of the Department, in accordance with policy found in the Bridges Eligibility Manual.



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

Date Signed: 01/21/10

Date Mailed: 01/22/10

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:

