

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: 20104102
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 25, 2009
Macomb 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 25, 2009.

ISSUE

Was the claimant's FAP application properly denied for a failure to provide 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 assistance in Macomb County on September 14, 2009.
- (2) During routine cross reference checks, DHS received a new hire notice stating that claimant had started working at a construction company on [REDACTED].
- (3) DHS also received an income search result that showed claimant had not received income from this construction company since the 4th quarter of 2008.

- (4) DHS also received a UCB income search that showed claimant was receiving unemployment income at the time he was supposedly employed at the construction company, with a filing date of November 20, 2008.
- (5) On September 15, 2009, claimant was sent a verification of employment with the new hire notice, instructing him to have the construction company fill out the verification form.
- (6) Claimant phoned DHS on September 24, 2009 and reported that he had not worked for the construction company for quite some time and would be unable to get the verification.
- (7) Claimant was told that the verification of employment form still needed to be completed by the construction company.
- (8) The Department did not send the verification of employment directly to the employer.
- (9) On September 29, 2009, claimant's FAP application was denied for a failure to return verifications.
- (10) On October 5, 2009, 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).

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. All sources of income must be verified. BEM 500. However, while the claimant has the primary responsibility for returning verifications, the caseworker may not deny assistance because an employer or other source refuses to verify income. BEM 500.

If the claimant is unable to obtain verifications, despite a reasonable effort, the caseworker is to use their best judgment in appraising the claimant's claims. BAM 130.

The Administrative Law Judge accepts that had the claimant lost his job during a period in which he was already receiving benefits, claimant would be required to verify the job loss; a job loss would almost certainly mean an increase in benefits, and BEM 500 states that changes that result in an increase in benefits must be verified.

That being said, the current situation is entirely different; claimant was not reporting a change in his job situation while receiving benefits; claimant was applying for benefits, and his job situation had not changed in some many months.

PAM 130 states that verification must be obtained when required by policy; BEM 500 states that sources of income must be verified. Claimant's only source of income at the time, his UCB benefits, was indeed verified. However, policy does not, and has not ever, required a new applicant to verify a **lack** of income. Job losses are typically verified when an FAP recipient informs the Department that they have lost the job; as stated above, the loss of job-related income typically means an increase in benefits, and changes that result in an increase in benefits must be verified. BEM 500. In the current case, claimant applied and reported, truthfully, that he was not working; he was not required to verify this fact.

However, the undersigned admits that BAM 130 also allows for verification to be sought when an eligibility factor is incomplete, inconsistent, or contradictory. That being said, the undersigned does not believe that this was the case in the claimant's situation.

The Department's main source of contention is a new hire notice run by the BRIDGES system that showed that claimant had started to work for the construction company in question on [REDACTED]. At the same time, the Department ran an income search on the claimant, designed to turn up any unreported income. This income search showed that claimant had indeed worked for the construction company in question, but that the last time claimant had received any payment from the company was in the fourth quarter of 2008. This is admittedly contradictory; however, the undersigned would attach far more weight to the document that gave actual income amounts rather than the document that gave a vague hire date.

This is further compounded by the fact that claimant's UCB record, also obtained by the Department at the same time, showed claimant was receiving unemployment benefits during the time he was supposedly working. These unemployment benefits started in November, 2008, which, un-coincidentally, was in the fourth quarter of 2008, the same date as the income search showed claimant last received a paycheck from the company.

Combined with claimant's statement to the Department upon receiving the request for verifications that he had not worked for this construction company since that time, and the conclusion becomes obvious; the new hire search had a mistaken result, certainly not unheard of on the BRIDGES system.

Contrary to the Department's arguments, the undersigned does not believe that one document with a start date of questionable authenticity is enough to cast doubt upon claimant's statements, claimant's state income records, and claimant's state UCB record. To wit: there was no real contradiction in claimant's statements, and therefore, no verification was required.

An applicant is required to verify sources of income—an applicant is not required to verify sources of no income. If, later, it turns out that an applicant was lying about the lack of income, recoupment and disqualification will follow. The Department cannot force the claimant to prove a negative.

However, even if verification was required, the undersigned will note that at no point did the Department attempt to send the verifications directly to the employer. The Department is required to assist claimant in obtaining required verifications. BAM 130. Claimant reported to the Department that he no longer held that job, and claimant testified credibly that he would have trouble getting the verifications signed.

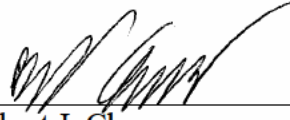
The correct course of action at that point was for the Department, if they truly felt that claimant was still working and receiving income, and wished to investigate more fully, to send the verification directly to the employer. If the employer did not return the verification, then the Department would have had to use their best judgment—BEM 500 prohibits a negative action for the refusal of an employer to submit a requested verification. Regardless, the request for verification at that point would be more to satisfy the curiosity of the Department; the great weight of the evidence shows that claimant's statements on his application were accurate and did not require further verification.

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 application for failure to return verifications was incorrect.

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

The Department is ORDERED to process claimant's application retroactively to the application date, using the verifications and verbal and written statements already provided by the claimant.



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 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.

RJC/dj

cc:

