

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: 2010-5898

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 26, 2010

Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing received by the Department on November 19, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 26, 2010. The Claimant appeared and testified on her own behalf. Claimant's daughter, [REDACTED], also testified and wrote questions out for the Claimant to answer, as the Claimant is hearing impaired. The Department representative Duane Gore, ES and Vicki Johnson, OIG fee investigator also appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case due to Claimant's husband's and son's failure to return income verification?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant filed an application with DHS for FAP on June 4, 2009.

2. In the Application for Benefits, the Claimant listed four household members, which included her husband, her son, her daughter, and herself.
3. The Department mailed a Verification Checklist to both the husband and the son which were not responded to by the Claimant. The Department did not produce any verification checklist documents at the hearing.
4. The Claimant did not receive any of the Verification Checklists.
5. The Claimant is hearing impaired and was assisted at the hearing by her daughter who wrote out questions to be answered.
6. The Claimant's son moved out in June and, thus, was not part of the FAP group. The son applied for food stamps on his own behalf.
7. At the time of the application, the claimant's husband received unemployment benefits in the amount of \$554.00 and was living in the household. The Claimant had shelter expenses and paid \$350 a month in land contract payments and also paid heat.
8. The Claimant's FAP group was composed of herself, her daughter, and her husband until he moved out in September or October 2009.
9. The Claimant is entitled to receive child support in the amount of \$591 a month for her daughter but has not received same.
10. The Department closed the claimant's case on or around August 3, 2009 but did not provide a copy of the Notice of Case Action at the hearing.
11. The Claimant's daughter told the OIG investigator in September 2009 that her father was living in the house as he was present although did not spend the night. The father was living at his mother's at the time. The Claimant's daughter who answered the questions for the OIG investigator is a minor. The daughter also

stated that the father left the household sometime in July and was there on and off but did not spend the night but helped with food in small amounts of \$10.00 a week.

12. The one sentence Hearing Summary provided by the Department states as follows: Only eligible group members left the home is the reason Ms. Jackson's case closed. Exhibit 1
13. On August 18, 2009, the Department received the Claimant's Request for Hearing which protested the Department's denial of the Claimant's FAP application. The hearing requested indicated that the Claimant's husband and son no longer lived in the home and that the claimant no longer was working. Exhibit 2
14. In September, around September 23, 2009, the OIG investigator conducted an investigation regarding who was living in the house, absent parent allegations and eligible children. The investigation was conducted even though the FAP case was closed. The OIG investigation report or summary was not submitted as an exhibit as part of the hearing record.
15. The hearing record was left open for the Department to submit documentation in support of its denial of the Claimant's application by the close of business, April 26, 2010, the day of the hearing. The Department did not submit any further documents or other information.

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) 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 Reference Tables (RFT).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

The Department is required to verify income and group size at application and when a change is reported. BEM 554, p. 11.

In this case, the Department said it did a number of things which could not be verified by any documents substantiating same at the hearing. The Department said it mailed out several verification checklists requesting the claimant's son and husband provide the Department with information regarding income and verification of their presence at the residence. None of the requested verifications sent by the Department were provided to the Administrative Law Judge as part of the record at the hearing and were not offered as evidence. The Claimant was not sent any checklists and did not receive same. The Department further sent an OIG investigator out after the application was denied. While the OIG agent testified at the hearing, the report prepared for the Department also was not submitted as evidence and was not made a part of the

record at the hearing. The Notice of Case Action, which would substantiate the reasons for denial of the application, also was not provided at the hearing, or after the hearing.

The claimant did not respond to any of the verifications because they apparently were not sent to her directly but did not receive a verification checklist at her residence. Once the Department determined that the Claimant's son was not living there, it appears it could have processed FAP benefits as it did have income information for the Claimant's husband's unemployment benefits. The department apparently had shelter information but it was unclear why it needed to verify income. Because the Department did not produce the verification checklists it requested of the Claimant's group members – that it said were sent, the application for FAP benefits, the OIG report, or the notice of case action, the Department has not met its burden of proof to show the basis for its determination and apparent denial of the Claimant's FAP application. Unfortunately, based on the lack of documented information available to the Administrative Law Judge, the decision is based on what information and facts that could reasonably be gleaned from the testimony of the witnesses.

Based upon the foregoing facts and relevant law, it is found that the Department's decision to deny the Claimant's FAP application for benefits is REVERSED for the reason that the Claimant did not receive the verification checklist and, thus, the application or case should not have been closed. Further, this decision is also based on the lack of a documented record presented by the Department at the hearing and its inability to reconstruct what occurred in this matter, and the fact that no further documentation was submitted.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did not support the decision of the

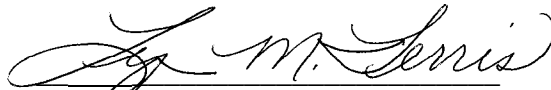
Department to deny the Claimant's application for FAP benefits for failure to provide verification of requested information and, therefore, must be REVERSED.

Accordingly, it is ORDERED:

1. The Department's determination to deny the Claimant's application for FAP benefits is REVERSED.
2. It is further ORDERED that Claimant's application for FAP benefits shall be reinstated as of the date of the application, June 4, 2009.
3. It is further ORDERED that the Department shall initiate steps necessary to review the application and to determine if the Claimant is eligible for FAP benefits retroactively to the date of the application, and to seek further verifications, if any, that are necessary with regard to the Claimant's household income with regard to her spouse's income, her own income, if any, and child support, if any, received by the Claimant for the period.
4. The Department is further ordered to verify this income information using its Bridges wage, unemployment and child support information inquiry systems, to assist the Claimant due to the fact that the information required goes back to June 2009.
5. The Department shall not have to verify the Claimant's son's presence or income as part of the household group, as it is found he moved out in June 2009.
6. The Department shall seek further verification regarding the presence of the Claimant's spouse in the household based on verification information provided by the Claimant and base its determination of her eligibility based on her information provided to the Department with regard to when her husband resided in the residence and whether he was part of the FAP group. As the Claimant's husband

does not reside in the household at present, and has not done so for some time, no verification from the Claimant's husband is necessary, unless the Claimant advises the Department that he does currently reside in the household as a member of the group.

7. The Department shall provide the Claimant adequate time to provide any verification information and shall grant an extension of time if the Claimant requests one before the date the information is due.
8. After the verifications, if what was requested by the Department are received, the department shall rerun the Claimant's FAP budgets and supplement the Claimant for FAP benefits, if any, she was otherwise entitled to receive retroactive to June 4, 2009.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/07/10

Date Mailed: 06/08/10

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.

LMF/dj

2010-5898/LMF

cc:

