

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: 2010-8340

Issue No: 3015

Case No: ██████████

Load No: ██████████

Hearing Date:

February 10, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 February 10, 2010. Claimant appeared and testified.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) benefits for 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 a material fact:

1. On September 15, 2009, a review packet was sent to the Claimant with an appointment scheduled for October 2, 2009.
2. On October 2, 2009, the Claimant informed the Department of employment and provided copies of 2 check stubs for September 4, 2009 and September 18, 2004.

These two checks covered a month's worth of income and the next check was not due until after this date.

3. On October 5, 2009, the Department sent a letter indicating simply "missing checks"; no additional information was provided to indicate what checks were in fact missing – only that the Claimant needed to provide "missing checks" by October 15, 2009.
4. On November 4, 2009, the Department closed the Claimant's case for failure to return requested verifications.
5. On November 4, 2009, the 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) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the present case, Claimant disputes the Department's FAP closure of her FAP case for failure to return verifications. The Department records indicate the Claimant's case was up for review and a review was conducted. The Claimant provided copies of one month's worth of income as requested at review. However, BRIDGES determined there were missing checks and requested additional verification. The check stubs provided clearly give the Department the most recent month's worth of income to consider. The next paycheck was not available at the time of the review appointment. The Department's system requested additional verifications indicating

“missing checks”; no explanation was contained on the request for additional verifications form regarding what exactly the Department was missing.

Relevant policy can be found in BAM Item 130, p.1-3:

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. PEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/re-determination and for a reported change affecting eligibility or benefit level.

Obtaining Verification

Tell the client what verification is required, how to obtain it, and the due date (see “Timeliness Standards” in this item). Use the DHS-3503, Verification Checklist, or for MA re-determinations, the DHS-1175, MA Determination Notice, to request verification.

Use the DHS-3503C, Verification Checklist for Citizenship/Identity to request documentation of citizenship or identity for Medicaid determinations.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.

Relevant policy can be found in BEM Item 500, p.41:

VERIFICATION REQUIREMENTS

All Programs except Healthy Kids

Verify countable income:

At application, prior to authorizing benefits, and

At redetermination, and

When program policy requires a change be budgeted

For FIP, SDA, CDC and FAP verify, changes that result in a benefit increase or when the change information is unclear, inconsistent or questionable.

The client has primary responsibility for obtaining verification. You cannot deny assistance just because an employer or other source refuses to verify income. See [BAM 130](#), Verification and Collateral Contacts and [BEM 702](#), CDC Verifications.

VERIFICATION SOURCES

All Programs

Verification may be from the following:

- Documents (example: pay stubs or award notice).
- Written statements/collateral contacts from persons with knowledge of the income (example: employer or issuing agency).
- Automated Find and Fix Inquiry (AFF).
- Consolidated Inquiry.
- You may verify most unearned income by written statement from the agency, organization or person administering the payment. The verification must confirm the gross amount for a month.
- Accept an award notice dated within the past 60 days if there is no reason to suspect the amount has changed.

Verify the following with one of the stated sources or its equivalent:

Earnings from Employment

- Pay stubs.
- Copy of work schedule made by the employer and provided by the client, when the rate of pay is known.

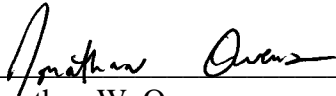
- DHS verification of employment forms.
- Other written statement, signed by employer, giving the necessary information.

The Department failed to utilize the appropriate check stubs submitted at review. No additional check stubs were necessary or available at review to consider. Therefore, the Department improperly requested additional verification. In addition, the verification form sent to the Claimant was deficient in that it failed to clearly indicate what the Claimant needed to provide. If the Department is asking for verifications from the Claimant, this request has to be clearly communicated to the Claimant in order to close a case for a failure to provide verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department incorrectly closed the Claimant's FAP benefits.

Therefore, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. The Department is to re-process the Claimant's FAP review for October 2009 and open and supplement the Claimant for any loss in benefits if found eligible.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/26/10

Date Mailed: 03/26/10

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.

JWO/dj

cc:

