

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: 201012200
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 21, 2010
Oakland 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 January 21, 2010.

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 applied for FAP benefits in Oakland County.
- (2) Claimant was sent a DHS-3503, Verification Checklist, with instructions to return proof of income from a retirement pension by November 9, 2009.
- (3) Claimant returned this form along with a statement of her pension in a timely manner.

- (4) The Department ruled that this verification was insufficient because the statement claimant returned was from 2006.
- (5) Claimant was not notified that these verifications were insufficient.
- (6) Claimant was notified on November 10, 2009 that her FAP application was denied for failing to verify her pension income.
- (7) Claimant was informed of the problem after denial but was not given a chance to correct the error.
- (8) On November 24, 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).

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.

With regard to the claimant's FAP case, the undersigned notes that the Department did send verification requests to the claimant, and that the claimant did return insufficient verifications. However, the undersigned is unconvinced that the Department allowed the claimant sufficient opportunity to correct her good faith error.

Claimant was given a DHS-3503 that informed her to return verifications of her pension income. Claimant returned to the Department the only verification she had, which was from 2006. Claimant testified that this amount had not changed and was a set amount. Claimant was unaware that this verification was insufficient.

However, instead of informing the claimant that her verification was unacceptable and providing alternatives, the Department denied the application out of hand. This is a violation of policy.

BAM 130 states that if the claimant cannot provide verification despite a reasonable effort, extend the time limit at least one time. Claimant had sent in all that she had—quite clearly a reasonable effort at providing verification, especially in absence or notification of alternative sources. However, the Department, instead of extending the time limit and requesting alternate verification, instead denied the application. This is prohibited by BAM 130.

When a claimant has made a reasonable attempt at providing verifications, the Department may not simply state that the verifications were incorrect and close the case. BAM 130 states that an extension is to be granted—presumably this would include notifying the claimant of exactly what was wrong with their reasonable effort and giving them a chance to correct the mistake.

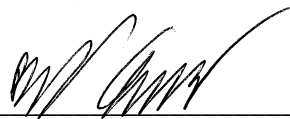
Claimant was never given a chance to remedy her mistake, and as such, the FAP application denial was incorrect.

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 application was incorrect.

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

The Department is ORDERED to reopen claimant's FAP application and re-request income verifications in order to determine eligibility, 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: 03/22/10

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.

RJC/dj

cc:

