

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: 2010-14135

Issue No: 2006; 3008

Case No:

Load No:

Hearing Date:

February 9, 2010

Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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 telephone hearing was held on February 9, 2010.

ISSUE

Did Claimant refuse to cooperate with the department in providing verification needed to determine his continued eligibility for AMP and FAP benefits?

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 has been a self-employed AMP and FAP recipient at all times relevant to this matter.

(2) On June 30, 2010, the Department sent Claimant a Verification Checklist, requesting verification of self-employment income to include recent business receipts to date,

recent accounting or other business records, or a recent income tax return by the due date of July 10, 2009. (Department Exhibit 1, p. 1)

(3) Claimant told his worker that he was having problems getting the verification that the Department needed, and he was paid in cash by a person who moved to [REDACTED]

(4) Claimant's FAP case closed on July 31, 2009, based on a failure to provide verification needed to determine continued eligibility for FAP benefits.

(5) On October 28, 2009, the Department sent to Claimant written notice that his FAP case closed on July 31, 2009, and his AMP case was closing effective November 30, 2009, due to his failure to provide the requested income verification in a timely manner.

(6) On December 15, 2009, the State Office of Administrative Hearings and Rules received Claimant's hearing request, protesting the closure of his AMP and FAP cases.

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

All Programs

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

Obtain verification when:

- Required by policy. BEM 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/redetermination **and** for a reported change affecting eligibility or benefit level.

If a client indicates he/she has a disability that impairs his/her ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information.

Verification is **not** required:

- When the client is clearly ineligible, or
- For excluded income and assets **unless** needed to establish the exclusion.

Types of Verification

All Programs

Use documents, collateral contacts or home calls to verify information.

A **document** is a written form of verification. It may include a photocopy, facsimile or email copy if the source is identifiable.

Permanent documents must be obtained only once. Examples: birth certificate, passports, divorce papers, death notice.

Nonpermanent documents must be current. Examples: driver's license, pay stub, rent receipt, utility bill, DHS-49.

Home calls are **not** required but may be used to verify factors. See the “**INTERVIEWS**” section in BAM 115.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see [Timeliness of Verifications](#) in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, 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 FIP, SDA, and 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.

Alien information, blindness, disability, incapacity, inability to declare one's residence and, for FIP only, pregnancy must be verified.

Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA.

Verification Sources

All Programs

“**Verification Sources**” of each BEM item lists acceptable verifications for specific eligibility factors. Other, less common sources may be used **if** accurate and reliable.

Use a particular source **if** it is the most reliable (e.g., public records). Otherwise, use the one easiest to obtain.

Timeliness of Verifications

CDC, FIP, FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

- The client indicates refusal to provide a verification, **or**
- **The time period given has elapsed and the client has not** made a reasonable effort to provide it.

Only adequate notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification. See BAM 210.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130

In this case, the Department requested that Claimant provide self-employment verification by July 10, 2009. The Department closed Claimant's FAP case on July 31, 2009. The Department provided Claimant with written notice of the closure of his FAP case, and the proposed closure of his AMP case on October 28, 2009.

The Department failed to meet its burden of going forward and establishing that Claimant failed to make a reasonable effort to cooperate with the Department in providing verification that it needed to determine his continued eligibility for AMP and FAP benefits. The Department did not dispute that Claimant informed his worker that he was unable to obtain the specific self-employment verification that he was asked to provide. The Department failed to establish that it offered to assist Claimant in providing the income verification that it needed or that Claimant was provided with written notice of alternative income verification that he could provide to establish his continued eligibility for program benefits. Therefore, the Department's AMP and FAP action cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant did not refuse to cooperate with the Department in establishing his continued eligibility for AMP and FAP benefits.

Accordingly, the Department's AMP and FAP action is REVERSED. The Department shall initiate another redetermination of Claimant's eligibility for AMP and FAP benefits in accordance with the applicable law and policy and allow Claimant another opportunity to submit the verification that it needs to complete this process. The

