

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.: 201018118

Issue No.: 3019

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 17, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 17, 2010. At the hearing, the Claimant was present and testified. Claimant was represented by [REDACTED], [REDACTED] ES and [REDACTED]. [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's Food Assistance Program ("FAP") benefits effective 3/1/10 due to a failure to return verifications.

FINDINGS OF FACT

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

1. Claimant was an active FAP recipient.

2. The Department determined that Claimant's income was questionable due to businesses owned and referred the case to the OIG for investigation.
3. The OIG determined that Claimant owned three businesses: 1) [REDACTED] aka [REDACTED] [REDACTED]; 2) [REDACTED] and 3) [REDACTED] and concluded that the Claimant "acted with intent, by failing to report their business ownership." OIG Investigative Findings, 9/25/09, Exhibit 1, p. 5.
4. The [REDACTED] is a nonprofit corporation with an assumed name of [REDACTED]. (Exhibit 1, pp. 8, 14-28).
5. Claimant testified that he received wages from the [REDACTED] and that he reported those wages to the Department.
6. Claimant testified that the [REDACTED] has achieved 501(c)(3) nonprofit status with the IRS.
7. [REDACTED] is a domestic profit corporation. Exhibit 1, pp. 33-38.
8. On 10/23/09 The Department sent out a verification to Claimant requesting 2008 Business/corporation taxes reported to the IRS for [REDACTED], [REDACTED] [REDACTED] and [REDACTED] with a due date of 11/6/09.
9. No verifications were provided by Claimant.
10. At the hearing, Claimant provided additional documents including:
 - a. Payroll Summary of [REDACTED] (Exhibit A);
 - b. Note from [REDACTED] indicating that Claimant is no longer earning income as of 1/1/10 due to lack of funds. (Exhibit B);
 - c. Unsigned 2009 990 EZ for tax exempt organization. (Exhibit C);
 - d. Certificate – Conducting Business in Michigan for [REDACTED]. (Exhibit D).

11. Claimant testified that [REDACTED] is an assumed name and the sole purpose for this business was for Claimant to be able to travel and give lectures.
12. Claimant testified that no money was ever made from [REDACTED].
13. The Department terminated Claimant's FAP benefits effective 3/1/09 for failure to turn in verifications.
14. On January 29, 2010, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, 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 ("PEM"), and the Reference Tables ("RFT").

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 130, p. 4. A negative action notice should be sent when the

client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it.


In the present case, the public records show that Claimant was instrumental in establishing the [REDACTED] (aka [REDACTED]) which is listed on public records as a nonprofit corporation. The 2009 tax return provided by Claimant at the hearing shows that [REDACTED] suffered a monetary loss for the last several years. As the 2009 tax returns are not signed or certified as filed, however, they cannot be considered as factual evidence. Given that the corporation was established as a nonprofit and that Claimant testified credibly that he received wages only from [REDACTED] and reported it as income, the undersigned finds that Claimant does not personally have a stake in the income of the corporation. The tax returns were, therefore, not necessary to the calculation of FAP benefits.

It is unclear from the record, however, whether Claimant received any income from the other two businesses, [REDACTED] or [REDACTED]. Claimant did not provide any tax returns either in response to the verification request or at the hearing regarding these two businesses. A signed tax return indicating that no income was collected would have been sufficient verification but was not entered into evidence. Accordingly, based on the foregoing relevant facts and law, the undersigned finds that the Department's closure of the Claimant's FAP benefits effective 3/1/10 was proper. The Claimant is encouraged to reapply for FAP benefits with verification of any or no income from these two businesses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly closed Claimant's FAP benefits effective 3/1/10.

Accordingly, it is ORDERED that the Department's negative FAP action and closure of FAP case effective 3/1/10 is AFFIRMED.

/s/ 
Jeannie M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 7, 2010

Date Mailed: April 7, 2010

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

JV/hw

cc:

