

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201020086
Issue No: 3008;2006;1005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 5, 2010
Wayne 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 August 5, 2010.

ISSUE

Was the claimant's FAP, FIP, and MA benefits properly placed into closure for a failure to provide 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 was a FAP, FIP, and MA recipient in Wayne County.
- (2) Claimant was not an applicant for these programs.
- (3) On December 22, 2009, claimant was sent a DHS-3503, Verification Checklist, with a due date of January 4, 2010.
- (4) This notification requested verifications of eligibility for the FIP, FAP, and MA programs.
- (5) This notification specifically requested verifications of citizenship from the claimant, verifications of identity for the claimant and the claimant's daughter, and verifications of school attendance for the claimant's daughter.

- (6) Claimant did not return the requested verifications.
- (7) On January 15, 2010, claimant's benefits were placed into closure for a failure to return verifications.
- (8) On January 29, 2010, DHS received a request for hearing.
- (9) Claimant was represented by [REDACTED].

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 (PRM). A DHS-1171, Assistance Application must be completed when eligibility is re-determined. BAM 210. 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. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130.

Furthermore, identity must only be verified at application. BEM 221 refers repeatedly to those needing to provide verification as "applicants"; therefore, the undersigned believes that the intent of the policy was that applicants, and only applicants, provide verification. More importantly, BEM 221 does not state that verification can be required at any other time besides application.

Citizenship verification is not required for U.S. citizens applying for FAP. BEM 225. Citizenship must only be verified at application for MA, for reasons similar to those stated above with regard to identity. BEM 225. There is no policy that states that a client must provide further proof of citizenship or identity after supplying it to the Department upon application. Citizenship verification is not required for FIP, unless the claimant's citizenship statements have cause to be questioned. BEM 225.

In the current case, the Department contends that claimant did not return verifications of identity or citizenship, as required by the regulations, and was therefore terminated from her FIP, FAP, and MA benefits because the Department was unable to determine eligibility.

This is not supported by policy.

First, the claimant needed to supply these verifications in order to originally be approved for benefits. The fact that claimant was on benefits should be proof enough that they were supplied at the time of initial application; claimant's application could not have been approved without appropriate documentation of identity. There were no allegations that the claimant's identity or citizenship was questionable back when she was originally approved for benefits; the undersigned is unsure how claimant's identity or citizenship would have changed in the intervening years. Therefore, the Department was not "unable to determine eligibility", as required by BAM 130.

Furthermore, verification is required to determine eligibility; the Department was not attempting to determine eligibility, as was contemplated by BAM 130. Eligibility determinations are conducted at application or redetermination or when the claimant has submitted evidence of change that would affect benefit levels or eligibility; no evidence was submitted that this was the case. At most, the evidence shows that the Department was unable to locate these verifications in claimant's file, and requested them from the claimant in order to maintain a complete file. There is no evidence as to why claimant was sent a DHS-3503, other than to provide verifications. As verifications are only required to determine eligibility, and there was no allegation that claimant's eligibility for benefits was questionable, the undersigned is unwilling to allow requests for verifications for the sake of requesting verifications.

Additionally, policy only requires proof of citizenship and identity at application. The policy items on these subjects are rife with references to applications and denying applications of individuals for failure to provide verification, and even refer to those who need to verify identity and citizenship as "applicants". There is no mention of a client providing the same verifications after the fact, years later. BAM 130 states that these verifications are usually required at application or redetermination.

Claimant was not an applicant; the evidence of record shows that claimant was receiving benefits, and had her benefits case closed. Had this been a legitimate request for identity and citizenship verification, and claimant had failed to provide evidence of the same, claimant's application for benefits would have been denied—there would be no closure of benefits, as in the current case. Presumably, claimant would not have been capable of receiving benefits if she had not verified identity, and thus, claimant could not have been an applicant.

This is, of course, ignoring the fact that claimant was not even required to verify citizenship for her FAP or FIP benefits in the first place; BEM 221 does not require verification of citizenship for these programs. Placing a FIP and FAP benefit case into closure for a failure to provide citizenship verification for FAP and FIP is a gross violation of policy.

Finally, with regard to claimant's daughter's failure to verify school attendance, BEM 245 states that the Department is to verify school enrollment and attendance at application, and at each birthday beginning with age 16, for the purposes of the FIP program. For the FAP program, verification is not required unless statements regarding

school attendance are questionable. As stated above, there is no evidence that this was a new application. Furthermore, claimant's daughter has a birth date of [REDACTED]. Claimant's daughter, at the time of this request was not 16, and was not 16 at the time of the negative action. Therefore, no verification was required.

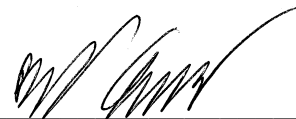
Thus, as the claimant was not an applicant, and as the policy relevant to this case only requires verification of identity and citizenship at application, and as verifications of school attendance was not required, the undersigned must hold that the Department was in error from the moment they sent the DHS-3503. No verification was required from the claimant, and therefore, the Department could not have placed claimant's benefits case into closure for failing to return the verifications. Claimants cannot be placed into benefit closure for failing to return any verification; BAM 130 holds that claimant's must return required verifications. The verifications requested by the Department were clearly not required, and therefore, the Department made an error in closing the claimant's benefit case.

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 close claimant's FIP, FAP, and MA case was incorrect.

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

The Department is ORDERED to remove all negative actions against the claimant in the above matter.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/10/10

Date Mailed: 12/10/10

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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:

