

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.: 201025749

Issue No.: 3019

Case No.: ██████████

Load No.: ██████████

Hearing Date:
April 12, 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 a hearing received by the Department on March 9, 2010. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 12, 2010. The Claimant appeared and testified. ██████████ ES, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance Program ("FAP") benefits due to a failure to timely 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. The Claimant applied for FAP benefits on 6/9/09.

2. On 7/17/09 the Department mailed a verification checklist to Claimant requesting verification of employment ending with a due date of July 27, 2009. (Exhibit 1, p. 2).
3. The Department testified that Claimant failed to provide verification of his employment ending.
4. Claimant testified that he submitted the verification to his employer and it was faxed to the Department. In support, Claimant provided the following evidence at the hearing:
 - a. 7/13/09 letter from employer indicating that Claimant was terminated on 5/8/09 in response to Department request. (Exhibit A, p. 3).
 - b. 7/13/09 FAX cover sheet regarding Claimant's termination of employment (Exhibit A, p. 2).
 - c. 7/20/09 completed verification of employment (Exhibit A, p. 6).
 - d. 7/21/09 Fax cover for verification of employment. (Exhibit A, p. 5).
 - e. 4/13/09 note from employer indicating that verification was faxed to Department on 7/21/09 @ 5:48 p.m. (Exhibit A, p. 4).
5. The Department denied Claimant FAP benefits effective August 11, 2009 for failure to submit verifications.
6. On October 21, 2009, the Department received the Claimant's Request for Hearing protesting the denial of FAP benefits. (Exhibit 2).
7. At the hearing, the Department raised the issue of the circumstances of Claimant's termination and indicated that Claimant would not have been entitled to FAP as he was fired.
8. Claimant was denied unemployment compensation benefits based on insufficient base period wages. (Exhibit B).

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 (“BEM”), and the Reference Tables (“RFT”).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. 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.

Michigan’s FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

- Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. BEM 233B. If the client is noncompliant, the Department is instructed to

hold a triage to determine if there was good cause for the FAP based on the information known at the time of the determination. *Id.*

In this case, the Claimant testified credibly that he faxed his employment verification to his previous employer right away. The copy of the employment verification confirms Claimant's testimony as it has fax type at the top showing a date of July 20, 2009. (Exhibit A, p. 6). Claimant also provided evidence that his former employer faxed the verification of his employment termination to the Department the next day. While no fax confirmations were submitted, there are notes at the top of the fax regarding the employment termination indicating the time and date faxed. There is also a letter from the former employer indicating that the employment verification was faxed on July 21, 2009 at 5:48 p.m. The Administrative Law Judge finds that Claimant properly provided proof of his employment termination to the Department.

The Department indicated at the hearing that Claimant's FAP benefits would have been denied anyway as Claimant was fired from his job. Claimant's employment termination can only be used to deny him benefits if pending FAP benefits, he refused employment (including being fired from a job) without good cause. In the subject case, Claimant was terminated from his job prior to applying for FAP. Accordingly, BEM 233B does not apply.

If Claimant had been refused employment while his FAP benefits were pending, then a notice of a triage should have issued and a good cause determination made. None of that was done in this case. This was especially important as Claimant denied the accusation (both at the hearing and in his statement to the Department, Exhibit 2) that he was fired for being in an unauthorized apartment by the building manager. Furthermore, Claimant applied for unemployment compensation benefits and was denied "due to insufficient base period wages." (Exhibit B). Therefore, there was no good cause determination made by the unemployment

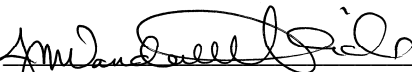
compensation board either. Regardless, BEM 233B does not apply in this case and accordingly, based on the relevant facts and foregoing law, it is found that the Department's denial of the Claimant's FAP benefits is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is held:

1. The Department's determination to deny the Claimant's FAP benefits effective August 11, 2009 is REVERSED.
2. The Department shall reopen and reprocess Claimant's FAP benefits from the date of closure, August 11, 2009 through the present and delete any negative action associated with the 8/11/09 closure.
3. The Department shall supplement the Claimant for any lost benefits he was otherwise entitled to receive.

/s/ 

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 11, 2010

Date Mailed: May 11, 2010

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.

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