

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.: 2010 37784

Issue No.: 3022

Case No.: ██████████

Load No.: ██████████

Hearing Date:

June 28, 2010

Wayne County DHS (35)

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 May 18, 2010. After due notice, a telephone hearing has conducted from Detroit, Michigan on June 28, 2010. The Claimant appeared and testified. ██████████, FIM and ██████████, FIS appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance Program ("FAP") benefits based on failure to return wage 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 was an active FAP recipient.
2. On 2/28/10, the Claimant indicated to the Department that he started new employment.

3. On 2/28/10, the Department sent out a wage verification form.
4. The due date for the wage verification was extended several times with a final due date of 4/5/10.
5. On 4/18/10 the case was placed into negative action for failing to provide proof of income.
6. Claimant testified that he worked for this employer two days a week for a month total.
7. Claimant further testified that the individual for whom he was working left town to start another contract and Claimant did not have a forwarding address for him.
8. Claimant testified that he was paid under the table.
9. Claimant testified that he called and left a message with the Department regarding his difficulty getting the verification.
10. The Department testified that the company for which Claimant was working was not a company and the number given by Claimant was not a good number.
11. On May 18, 2010, the Department received the Claimant's hearing request protesting the termination of the FAP benefits.

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 Table (“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. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the best available information should be used. If no evidence is available, the Department should use its best judgment. BAM 130, p. 3.

In the record presented, Claimant testified that he gave as much information as he had about his brief employment. The Administrative Law Judge finds Claimant’s testimony credible. While the Department did extend the time period for Claimant to provide verification, neither the Claimant nor the Department were able to obtain verification despite efforts from both sides. The undersigned is not surprised given the manner in which Claimant was paid. According to BAM 130, the Department should have just used the best information available as Claimant did not refuse to provide verification. The Administrative Law Judge finds that the Department’s actions were not in accordance with the regulations.

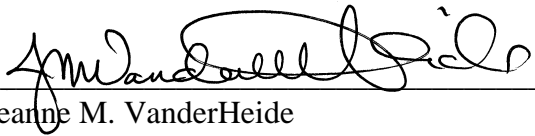
Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP case.

Accordingly it is Ordered:

1. The Department's negative FAP action of 4/28/10 is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete any negative action associated with the 4/28/10 FAP closure and supplement the Claimant for any lost benefits he was otherwise entitled to receive.



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

Date Signed: 07/13/2010

Date Mailed: 07/13/2010

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.

JV/cjp

cc:

