

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: 2010-41293
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 28, 2010
Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on June 16, 2010. After due notice, a telephone hearing was held on Wednesday, July 28, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

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 May 20, 2010.
- (2) On May 20, 2010, the Claimant faxed the Department eight pages of verification documents, including a paycheck stub dated May 13, 2010. Department Exhibit 19.

(3) On May 28, 2010, the Department sent the Claimant a Verification Checklist with a due date of June 7, 2010. Department Exhibit 1.

(4) On June 3, 2010, the Department received the Claimant's paycheck stub for the pay period May 10, 2010, through May 23, 2010. Department Exhibit 8.

(5) The Department received a Verification of Employment form from the Claimant's former employer, which indicates that the Claimant's last paycheck was earned on April 16, 2010. A paycheck stub for April 16, 2009, was submitted along with the Verification of Employment form. Department Exhibit 10 – 13.

(6) On June 11, 2010, the Department notified the Claimant that it had denied her FAP application for failure to verify necessary information. Department Exhibit 14 – 18.

(7) The Department received the Claimant's request for a hearing on June 16, 2010, protesting the denial of her FAP application.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of 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. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

The Claimant applied for FAP benefits on May 20, 2010. On May 28, 2010, the Department sent the Claimant a Verification Checklist with a due date of June 7, 2010. The Department requested that the Claimant verify her income for the previous 30 days and that her previous employment had ceased. On June 11, 2010, the Department denied the Claimant's FAP application for failure to verify her income for the previous 30 days.

The Department received a Verification of Employment form that the Claimant's previous employer had completed. The form indicates that the Claimant's last paycheck was earned on April 16, 2010. The Department also received a paycheck stub showing earned income on April 16, 2009. The Department argued that the Claimant had failed to verify her earnings from this employer.

The Claimant argued that she had not worked for this employer for over a year and that it should not have been necessary for her to verify that this employment had stopped. The Claimant testified that her former employer must have inadvertently entered the date of her last paycheck as April 16, 2010, when it should have been April 16, 2009. The paycheck stub submitted along with this form is for April 16, 2009.

The Department is required to give the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130.

The Department argued that the Claimant had not verified her income for the previous 30 days when it denied her application for FAP benefits on June 11, 2010. The Department testified that it could only verify one paycheck that the Claimant earned for May of 2010.

The Claimant testified that she submitted verification of two paychecks earned in May of 2010, and that she is paid bi-weekly. The Claimant offered as evidence, a copy of a facsimile sent to the Department on May 20, 2010.

The Department testified that the facsimile sent on May 20, 2010, is not legible and it could not use it to verify the Claimant's income.

The Claimant sent the facsimile dated May 20, 2010 to the Department's Self Service Processing Center. The copy of the facsimile submitted as evidence during the administrative hearing shows a paycheck stub dated May 13, 2010.

Whether the paycheck stub dated May 13, 2010, was available to the Claimant's caseworker at the Department's office in Shiawassee County or whether the paycheck stub was legible is not relevant to this case. The Department will 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. BAM 130. In this case, there is no evidence that the Claimant indicated that she would refuse to provide verification, and the Claimant has established that she made a reasonable effort to provide it. Furthermore, there is no evidence that the Department gave the opportunity to clarify the information she submitted, or that it granted an extension to the deadline to verify her income.

The Department has failed to establish that the Claimant refused to verify her income, or that she did not make a reasonable effort to verify her income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that the Claimant did not make a reasonable effort to verify her income.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for FAP benefits as of an application date of May 20, 2010.
2. Allow the Claimant the opportunity to clarify her income.
3. Provide the Claimant with written notification of the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/

Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 2, 2010

Date Mailed: August 3, 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.

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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.

KS/vc

cc:

