

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-49388
Issue No.: 3019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 6, 2010
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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. After due notice, a hearing was held in Madison Heights, Michigan on Wednesday, October 6, 2010. The Claimant appeared, along with [REDACTED], and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department. [REDACTED], from the Department, observed the proceedings.

ISSUE

Whether the Department properly denied the Claimant's application for food assistance ("FAP") benefits on August 2, 2010?

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 submitted an application for public assistance seeking FAP benefits on July 7, 2010.
2. On July 16, 2010, the Department sent a verification checklist to the Claimant requesting the information be submitted by July 26, 2010.
3. The Department verbally extended the due date but did not provide a date when the verifications needed to be submitted.
4. On July 30, 2010, the Claimant faxed over a confirmation regarding the agreed upon extension which stated that the Claimant was submitting

approximately 94 pages by Federal Express to be received by the Department on August 2, 2010.

5. The Claimant also stated that he had received the wage verification for his wife and that he would attempt to complete and forward it noting that the necessary people who needed to complete the verification may be on summer vacation.
6. On Monday, August 2, 2010, the Department received the Claimant's Federal Express package.
7. On Monday, August 2, 2010, the Department denied the Claimant's FAP application for failing to verify or allow the Department to verify the necessary information.
8. On August 3, 2010, the Claimant submitted via facsimile, the spouse's verification of employment, and a copy of the spouse's 2009/2010 school year contract noting that the contract term had ended in June 2010.
9. On August 6, 2010, the Department received the Claimant's timely written request for hearing.

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 Bridges Reference Manual ("BRM").

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 A collateral contact is a direct contact with a person, organization or agency to verify information from the client. BAM 130 When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130 The client must obtain the required verification, however, the Department must assist if needed and/or requested. BAM 105; BAM 130 If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. BAM 130 If no evidence is

available, the Department should use its best judgment. BAM 130 Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130 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. BAM 130

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. BEM 500 Countable income from self-employment is the total proceeds less any allowable expenses. BEM 500 Allowable expenses are the higher of 25% of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 500 Allowable expenses are any identifiable expense of producing self-employment income except depreciation on equipment, real estate or other capital investment; a net loss from a previous period; federal, state, and local income taxes; personal entertainment or other personal business expense; or money set aside for retirement. BEM 500

In this case, the Claimant submitted an application for FAP benefits on July 7, 2010. The Department sent the verification checklist to the Claimant with a due date of July 26, 2010. Prior to the due date, the Department verbally agreed to extend the due date although a new due date was not given. The Claimant notified the Department on July 30, 2010 that he was sending through Federal Express approximately 94 pages of the requested verifications. In this communication, the Claimant also stated as follows:

We received the wage verification for my wife late yesterday and **will endeavor to complete and forward** same. However, I believe the necessary people might be on their summer vacation. Emphasis added (Cl. Ex. A)

The Department began entering the information in Bridges on August 2nd but, because the wife's employment verification was not received, the Department was unable to complete the FAP budget. On this same date, the Department denied the application. During the hearing, the Department acknowledged receipt of the wife's employment verifications. The Department also stated that it needed proof of the Claimant's self employment business expenses for the months of April and May 2010 otherwise the 25% self employment deduction would be utilized. Finally, the Claimant provided a summary of the investment monthly earnings (see-Cl. Ex. F) which further clarified what dividend/interest the household received. Ultimately, under the facts presented, the Department failed to establish it acted in accordance with department policy when it denied the Claimant's FAP application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department failed to establish it acted in accordance with department policy when it denied the Claimant's FAP application.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall re-open and process the Claimant's July 7, 2010 FAP application in accordance with policy.
3. The Department shall notify the Claimant in writing of the determination.
4. The Department shall supplement for any lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/07/2010

Date Mailed: 10/07/210

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 of the rehearing decision.

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cc:

