

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.	201050079
Issue No.	3008
Case No.	[REDACTED]
Load No.	[REDACTED]
Hearing Date:	September 22, 2010
Office:	Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone hearing was held on September 22, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application for Food Assistance Program (FAP) benefits due to an alleged failure by Claimant to verify stopped employment and 30 days of income.

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 applied for FAP benefits on 6/28/10.
2. Claimant's application for benefits stated that he recently lost his employment.
3. On 6/29/10, DHS mailed a Verification Checklist (Exhibit 2) requesting verification of Claimant's loss of employment and Claimant's last 30 days of income.
4. The due date for Claimant to return the verifications was 7/9/10.

5. On 7/7/10, DHS received an unsigned letter (Exhibit 3) from Claimant's employer stating that Claimant was a former employee and that his last date of employment was 5/25/10.
6. On 7/7/10, Claimant also submitted a pay stub with a pay date of 5/21/10 for pay period 5/1/10 through 5/16/10; claimant contends that this was his last pay stub.
7. On an unspecified date after 7/9/10, DHS denied Claimant's request for FAP benefits due to an alleged failure to submit a signed verification from Claimant's employer concerning his stopped employment and an alleged failure to submit 30 days of income.
8. On 7/26/10, Claimant requested a hearing disputing the denial of his FAP benefit application.

CONCLUSIONS OF LAW

The Food Assistance Program (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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

DHS must verify all countable income at application. BEM 500 at 9. DHS must also verify income that stopped within the 30 days prior to the application date or while the application is pending before certifying benefits. BEM 505 at 11. One reason for verifying that income stopped prior to an application date is that the income is countable if it was received in a benefit month even if it was received prior to the application date. In Claimant's circumstances, DHS could count all of Claimant's 6/2010 employment income to determine Claimant's 6/2010 FAP benefits even if Claimant received the income prior to his application date.

DHS must mail a Verification Checklist (DHS-3503) to clients to request needed verifications. BAM 130 at 3. For FAP benefits, specialists are directed to allow the client 10 calendar days to provide requested verification. *Id* at 5. A negative action notice is sent when a client fails to timely verify information. *Id*. Only adequate notice (i.e. the action occurs immediately and is not pended) is required for an application denial. *Id*.

In the present case, Claimant contends that he was required to submit a final pay stub and he did as instructed. Claimant's letter from his employer (Exhibit 3) indicates that Claimant's last day of work was 5/25/10. The pay check that Claimant considers his

final check was dated 5/21/10 and for a pay period which ended 5/16/10. Though Claimant testified that his check stub dated 5/21/10 was verification of his final pay, the undersigned is not inclined to accept Claimant's testimony without supporting evidence.

Employers traditionally have employees work during some defined period and issue payment to the employee following the period. Claimant did not indicate that his former employer paid employees in a different manner. Claimant testified that he believed his final date of work must have been prior to the 5/25/10 date provided by the employer.

Claimant received the DHS Hearing Summary (Exhibit 1) prior to the hearing. The Hearing Summary referenced the discrepancy between Claimant's alleged final date of work (5/25/10) and the pay period in Claimant's allegedly final check (pay period ending 5/16/10). Claimant failed to submit documents which would have clarified this discrepancy. Though Claimant may have sincerely erred in misstating his final date of employment, it is found that Claimant was issued checks subsequent to his 5/21/10 check. Thus, Claimant did not submit verification of his final employment check.

The submitted check (Exhibit 4) from Claimant covered a pay period from 5/10/10-5/16/10. This was a weekly pay period and no evidence indicated that Claimant was paid differently for other pay periods. The pay date on the submitted check was for 5/21/10. The final date of employment as verified by Exhibit 3 was 5/25/10. Based on the final date of employment, Claimant worked for his employer for two pay periods following 5/16/10 and would have received two pay checks after 5/21/10, a check on 5/28/10 and one for 6/4/10. The 6/4/10 check would have been within 30 days of Claimant's application date and was a requested verification that Claimant failed to submit. Accordingly, it is found that Claimant failed to submit 30 days of income as requested by DHS and that DHS properly denied Claimant's application for FAP benefits.

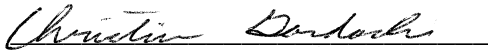
Claimant also contended that if he failed to submit a requested verification that DHS was obligated to contact him concerning his failure. Though some DHS specialists might assist an applicant in such a way, there is no requirement within DHS regulations to do so.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied

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Claimant's application for FAP benefits.


Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: September 30, 2010

Date Mailed: September 30, 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.

CG/hw

cc:

