

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: 2010-5450

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 10, 2009

Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on December 10, 2009.

ISSUE

Did Claimant refuse to cooperate with the department in providing verification needed to determine his continued eligibility for FAP benefits?

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 has been a self-employed FAP recipient at all times relevant to this matter.

(2) Claimant received a Verification Checklist, DHS-3503, requesting, among other things: “Proof of you \$500 per month income from the land contract, as well as a written statement that you don’t receive income from [REDACTED]...”

(Department Exhibit 1, p. 26)

(3) Claimant was required to submit the requested verification by June 5, 2009. (Department Exhibit 1, p. 26)

(4) Claimant submitted the requested verification by the due date of June 5, 2009.

(5) Claimant’s worker did not inform Claimant that the verification was insufficient until some time October 2009.

(6) On October 14, 2009, the Department notified Claimant in writing that he was no longer eligible for FAP benefits effective November 1, 2009, due to his failure to provide verification needed to determine his FAP eligibility.

(7) On October 23, 2009, Claimant submitted additional documentation in an attempt to verify his income. (Department Exhibit 1, pp. 14-25)

(8) On October 29, 2009, the State Office of Administrative Hearings and Rules received Claimant’s hearing request, protesting the closure of his FAP case.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department), 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).

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

If a client indicates he/she has a disability that impairs his/her ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information.

Verification is **not** required:

- When the client is clearly ineligible, or
- For excluded income and assets **unless** needed to establish the exclusion.

Types of Verification

All Programs

Use documents, collateral contacts or home calls to verify information.

A **document** is a written form of verification. It may include a photocopy, facsimile or email copy if the source is identifiable.

Permanent documents must be obtained only once. Examples: birth certificate, passports, divorce papers, death notice.

Nonpermanent documents must be current. Examples: driver's license, pay stub, rent receipt, utility bill, DHS-49.

Home calls are **not** required but may be used to verify factors. See the “**INTERVIEWS**” section in BAM 115.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see [Timeliness of Verifications](#) in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.

Use the DHS-3503C, Verification Checklist for Citizenship/Identity to request documentation of citizenship or identity for FIP, SDA, and Medicaid determinations.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

Alien information, blindness, disability, incapacity, inability to declare one's residence and, for FIP only, pregnancy must be verified.

Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA.

Verification Sources

All Programs

“**Verification Sources**” of each BEM item lists acceptable verifications for specific eligibility factors. Other, less common sources may be used **if** accurate and reliable.

Use a particular source **if** it is the most reliable (e.g., public records). Otherwise, use the one easiest to obtain.

Timeliness of Verifications

CDC, FIP, FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

Only adequate notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification. See BAM 210.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130

Claimant established that he made a reasonable effort to cooperate with the Department in providing verification that it needed to determine his continued eligibility for FAP benefits. The Department requested that Claimant provide verification of his \$500 per month income from a land contract, and a written statement that Claimant does not receive income from [REDACTED]. Claimant provided 13 pages of documentation as verification of his income, along with a written statement that he does not receive any income from [REDACTED]. This verification was submitted in a timely manner. (Department Exhibit 1, pp. 1-13) Claimant's DHS worker waited until

some time in October 2009, before he notified Claimant that the income verification was insufficient. Claimant submitted additional documentation after receiving notice that his FAP case was going to close due to his failure to provide sufficient income verification. Once again, the Department determined that Claimant failed to provide sufficient verification of his income. The DHS worker testified that Claimant could have provided a copy of his land contract to verify his income. However, the worker admits that he never told Claimant the specific verification that was needed to establish his monthly income.

In conclusion, the Department failed to establish that Claimant failed to cooperate with the Department in determining his continued FAP eligibility. Therefore, the Department's FAP action cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant made a reasonable effort to submit verification needed to determine his eligibility for FAP benefits.

Accordingly, the Department's FAP action is REVERSED. It is further, ORDERED that the Department shall act in accordance with the applicable law and policy and allow Claimant another opportunity to submit the verification that it needs to redetermine his FAP eligibility. If Claimant did not receive FAP benefits as a result of

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the Department's action in closing his FAP case, the Department shall issue the FAP supplement that Claimant is otherwise eligible to receive.

/s/ _____
Marya A. Nelson-Davis
Administrative Law Judge
for Ishmael Ahmed, Director
Department of Human Services

Date Signed: December 18, 2009

Date Mailed: December 18, 2009

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.

mand

cc:

