

**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.: 2010-55053  
Issue No.: 2006  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: October 20, 2010  
Wayne County DHS (17)

**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 telephone hearing was conducted from Detroit, Michigan on Wednesday, October 20, 2010. The Claimant appeared, along with [REDACTED], and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

**ISSUE**

Whether the Department properly terminated the Claimant's Medical Assistance ("MA") and food assistance ("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. The Claimant is a MA and FAP recipient.
2. On August 7, 2010 and as part of the redetermination process, the Department sent the Claimant a Verification Checklist requesting the information be submitted by August 17, 2010. (Exhibit 1, pp. 9, 10)
3. The Department requested in part, a Verification of Employment, paycheck stubs for the Claimant's spouse, and W-2 (2009) to establish "self" employment. (Exhibit 1, p. 10)
4. In response, the Claimant completed the Employment Verification indicating that her spouse was laid off and looking for another job and the

2009 W-2 statement from the spouse's former employer. (Exhibit 1, pp. 11 – 13)

5. On August 31, 2010, the Department sent a Notice of Case Action to the Claimant informing her that the MA benefits would close effective October 1, 2010 and that the FAP benefits would terminate effective September 1, 2010 with the close of the benefit year based on the failure to submit the requested verifications. (Exhibit 1, pp. 15, 16)
6. On September 9, 2010, the Department received the Claimant's timely written request for hearing. (Exhibit 1, p. 17)

### **CONCLUSIONS OF LAW**

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department of Human Services ("DHS"), formerly known as the Family Independence Agency, pursuant to MCL 400.10, *et seq* and MCL 400.105. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

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"), formerly 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 BAM, BEM, and 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 If the client cannot provide the verification for MA purposes, despite a reasonable effort, the time limit should be extended up to three times. *Id.* For FAP purposes, at redetermination, clients have until the last day of the redetermination month or 10 days, whichever is later, to provide the verification. *Id.* BAM 210 Verifications are considered timely if received by the due date. *Id.* The Department periodically re-evaluates cases to ensure continued eligibility for benefits. BAM 210 For FAP purposes, a complete redetermination is required at least every 12 months. BAM 210 FAP benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is entered. BAM 210 If the client does not submit a redetermination request, the benefit period expires. BAM 210 A negative action notice is sent when the client refuses to provide the requested

verifications or the time period has lapsed for the request and the client has not made a reasonable attempt to provide it. BAM 130

In this case, the Department testified that two Verification Checklists were sent to the Claimant; one for the spouse's previous employer and one for the spouse's new employer. Both reportedly requested the information be submitted by August 17, 2010. The Department was unable to produce a copy of the purported second checklist nor was it documented in Bridge's correspondence. The Claimant denied receipt of two checklists. Instead, the Claimant testified credibly that at that time, her spouse was unemployed and that she only received one Checklist. In response to the Verification Checklist that was received, the Claimant submitted an Employment Verification indicating that her spouse was no longer working (but looking for a job), and the 2009 W-2 tax statement from the spouse's previous employment. This information was received by the Department on August 13, 2010. Importantly, there was no evidence that the Claimant had refused to cooperate with the Department or that she failed to submit the information as requested by the Department. On August 31, 2010, the Department pended the Claimant's MA case for closure effective October 1, 2010. The Department did not enter a new benefit period for the FAP resulting in the termination of FAP benefits effective September 2010. The stated reason for the termination was due to the failure to submit the requested verifications. The Claimant testified that she notified the Department of her spouse's new employment on September 2, 2010, the date she received the Notice of Case Action. Ultimately, under the facts presented, the Department failed to establish it acted in accordance with department policy when it cancelled the Claimant's FAP and MA benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's MA termination is REVERSED.
2. The Department shall reopen the Claimant's MA case and supplement for any lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified.
3. The Department's FAP termination is REVERSED.
4. The Department shall timely reprocess the Claimant's FAP redetermination application in accordance with department policy.

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5. The Department shall notify the Claimant of the FAP determination in accordance with department policy.
6. The Department shall supplement for any lost FAP benefits effective September 1, 2010 that the Claimant was entitled to receive if otherwise eligible and qualified.

*Colleen M. Mamelka*

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

Date Signed: 10/21/2010

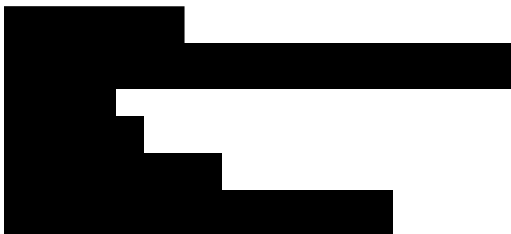
Date Mailed: 10/21/2010

**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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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