

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: 20107670
Issue No: 3008; 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 14, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on January 14, 2010.

ISSUE

Were the claimant's FAP and FIP cases properly placed into closure for a failure to return verifications?

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 in Wayne County.
- (2) Claimant was a FIP recipient in Wayne County.
- (3) Claimant was sent a DHS-3503, Verification Checklist, with instructions to return proof of income from the last 30 days by October 29, 2009.

- (4) This form only informed claimant that she could return check stubs, and made no mention of other acceptable forms of verification.
- (5) Claimant had lost some of her check stubs from the last 30 days.
- (6) Claimant returned this form along with her available check stubs on October 29, 2009.
- (7) The Department ruled that this verification was incomplete.
- (8) Claimant was not notified that these verifications were incomplete.
- (9) Claimant's caseworker left town before the verifications were due.
- (10) Claimant's caseworker returned on November 9, 2009.
- (11) Claimant was notified on November 9, 2009 that her FAP application was denied for failing to verify her proof of income.
- (12) Even though claimant's FIP was not up for review, the Department also closed claimant's FIP case for the same reason.
- (13) Claimant, upon receiving notice of the denial, immediately contacted the Department to find out what was wrong with her verifications.
- (14) Claimant was informed of the problem, but was told that she would not be given a chance to correct the error.
- (15) Claimant's FIP case was not pended to close, but closed immediately.
- (16) On November 9, 2009, claimant requested a hearing.
- (17) Even though claimant requested a hearing on the date of case action, claimant's FIP benefits were not continued, in violation of policy.

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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

An application or redetermination is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130. If the claimant cannot provide verification despite a reasonable effort, the time limit is to be extended at least one time. BAM 130. Income amounts can be verified through pay check stubs, a DHS-38, Verification of Employment, or through electronic methods. BEM 501.

With regard to claimant's FIP case, the undersigned notes that it was not up for review at the time of this action. There is no policy or regulation that supports the closing of one benefit

case because the claimant did not turn in required verifications for a completely separate program application. While Bridges may have closed claimant's FIP case of its own accord, this does not release the Department from its responsibilities—computer error is no excuse for Department error. Even if claimant failed to turn in verifications for her FAP application, this should have had no effect on claimant's ongoing FIP case. If claimant failed to turn in FAP verifications, the correct action would be to deny the claimant's FAP application and leave her FIP grant unaffected. Therefore, the Department's actions on the claimant's FIP case were erroneous and not consistent with policy in any manner.

With regard to the claimant's FAP case, the undersigned notes that the Department did send verification requests to the claimant, and that the claimant did return insufficient verifications. However, the undersigned is unconvinced that the Department allowed the claimant sufficient opportunity to correct her good faith error.

The Department's verification request only informed claimant that past pay check stubs were sufficient for verifying her earned income. This is not true—BEM 501 provides several ways to verify earned income, including a DHS-38, Verification of Employment. Policy permits several different types of verification, because policy recognizes that not every client will be able to meet the verification requirements in the exact same way.

In the current case, claimant testified quite credibly that she did not have all her pay check stubs, but was unaware that she had other opportunities available to her. The claimant sent in all that she could within the due date, in a reasonable effort to provide verification.

Unfortunately, claimant's caseworker was out of town at the time, so claimant could not be informed of that her verification was insufficient, nor could claimant question the Department as to what she could do in absence of the proper pay stubs.

Furthermore, when claimant's caseworker returned, instead of informing the claimant that her verification was unacceptable and providing alternatives, the Department denied the application out of hand. This is a violation of policy.

BAM 130 states that if the claimant cannot provide verification despite a reasonable effort, extend the time limit at least one time. Claimant had sent in all that she had—quite clearly a reasonable effort at providing verification, especially in absence or notification of alternative sources. However, the Department, instead of extending the time limit and requesting alternate verification, instead denied the application. This is prohibited by BAM 130.

When a claimant has made a reasonable attempt at providing verifications, the Department may not simply state that the verifications were incorrect and close the case. BAM 130 states that an extension is to be granted—presumably this would include notifying the claimant of exactly what was wrong with their reasonable effort and giving them a chance to correct the mistake.

Claimant was never given a chance to remedy her mistake, and as such, the FAP application denial was incorrect.

DECISION AND ORDER

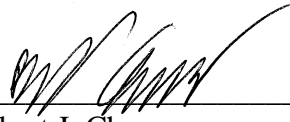
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's FAP application was incorrect.

The Department's decision to close claimant's FIP application was also incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to reinstate claimant's FIP case retroactive to the date of negative action. Claimant is to be issued supplemental FIP benefits back to this date. The

Department is FURTHER ORDERED to reopen claimant's FAP application and re-request income verifications in order to determine eligibility, in accordance with policy found in the Bridges Eligibility Manual.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/19/10

Date Mailed: 03/26/10

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.

RJC/dj

cc:

