

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2011-24885
Issue No: 3008
Case No: [REDACTED]
Hearing Date:
April 13, 2011
SSPC East DHS (98)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 13, 2011. The Claimant appeared and testified. Rebecca Johnson, Assistance Payments Supervisor, and Davita Crisler, Assistance Payments Worker appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance (FAP) application due to Claimant's failure to return information requested by the Verification Checklist by the due date?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material facts:

1. The Claimant applied for Food Assistance benefits, (FAP) on December 6, 2010.

2. On December 29, 2010, the Claimant was sent a verification checklist requesting proof of the FAP group employment income and self employment income and mortgage information. The due date for verification to be submitted was January 10, 2010. Exhibit 1
3. The Claimant received the verification checklist and sent in the following information before the verification checklist due date: verification of employment for his spouse, verification of employment for his daughter, and return of the self employment verification of income.
4. The self employment verification information submitted by the Claimant's son, indicated start up, check sales tax, not enough to write down", the form was unsigned and did not indicate income. The forms sent to the Claimant requested information for October and November 2010 and only October 2010 was returned. The income for the Claimant's son from self employment was listed as \$300 per month on the FAP application.
5. The Department denied the Claimant's FAP application on January 11, 2011 for failure to return all self employment information by the due date.
6. The Claimant requested a hearing on January 13, 2011, protesting the denial of the application as no further information was sought by the Department and the Claimant believed the information had not been received. The hearing request was received by the Department on January 13, 2011.

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) 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 (RFT).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral

contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p.

The Department is required to verify employment and income at application and when a change is reported. If the client fails to verify these items the Department must close the Claimant's case or deny the application for failure to verify the requested information. BEM 554, p. 11.

In this case, the Department mailed out a Verification Checklist seeking employment and shelter information as well and a Verification of Self Employment which was required to be filled out by the Claimant's son. The Claimant received the verification checklist and verification of self employment information requests, and returned all the information requested except a November 2010 verification of self employment and the information regarding self employment for October 2010 was unclear. Under these circumstances, the Claimant did not exhibit a refusal to cooperate and the information submitted indicated a reasonable effort was made to satisfy the Department's request for information. BAM 130 requires that before making an eligibility determination the Department must give the client a reasonable opportunity to resolve any discrepancy. In this case the application indicated \$300 in self employment income and the October form indicated that the business was a start up and suggested

that it had no income. Clearly this response was not adequate, but required further inquiry by the Department. BAM 130.

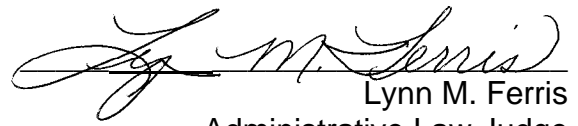
The Department under these circumstances incorrectly denied the Claimant's FAP application because much of the requested information was received by the Department well before the due date and does not indicate a refusal to cooperate sufficient to deny the application without further inquiry by the Department. The Department's determination to deny the FAP application is therefore REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's denial of the Claimant's FAP application for failure to receive verification information by the due date was in error and is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen and reprocess the Claimant's December 6, 2010 Food Assistance application and determine Claimant's eligibility for FAP benefits.


Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 05/04/11

Date Mailed: 05/06/11

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.

LMF/dj

cc:

