

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201132877
Issue No. 2006 3008
Case No. [REDACTED]
Hearing Date: June 2, 2011
Wayne County DHS (41)

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 June 2, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), Bobbi Mitchell, Specialist, and Linda Caver, Manager, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits effective 5/2011 due to an alleged failure by Claimant to verify retirement income.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP and MA benefit recipient.
2. Among Claimant's income, she received a pension from [REDACTED].
3. On 4/5/11, DHA mailed Claimant a Verification Checklist (VCL) requesting verification of Claimant's pension income for [REDACTED].
4. The VCL specifically listed "Recent check stub(s)" and "Letter or document from person/agency making payment" as examples of documents that would satisfy the DHS request.

5. Prior to the end of Claimant's FAP and MA benefit period, Claimant submitted a bank statement which verified a \$214.27 deposit with the description, "External deposit [REDACTED]".
6. DHS found the bank statement to be unacceptable verification of Claimant's pension income.
7. DHS failed to redetermine Claimant's FAP and MA benefits due to the alleged failure by Claimant to adequately verify her [REDACTED] pension income.
8. Claimant's FAP and MA benefits ended on 4/30/11
9. On 5/5/11, Claimant requested a hearing to dispute the MA and FAP benefit termination.

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). DHS (formerly known as the Family Independence Agency) administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 4/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

For all programs, DHS must request verifications when required by policy. BAM 130 at 1. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 at 1. Verification is usually required at application or redetermination. *Id.*

In the present case, DHS required verification of Claimant's pension income from [REDACTED]. It was not disputed that this was required information for Claimant's MA and FAP benefit redetermination.

The redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.* at 4. The packet consists of forms and requests for verification that are necessary for DHS to process the redetermination. The forms needed for redetermination may vary though a Redetermination (DHS-1010) is an acceptable review form for all programs. Verifications for redetermination must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time.

It was not disputed that Claimant timely submitted a bank statement as verification of her [REDACTED] income. Claimant submitted the statement following a VCL sent by DHS specifically requesting verification of the income. Claimant contended that the verification should have satisfied the DHS request. DHS contended that the bank statement was insufficient verification of Claimant's pension income.

DHS policy is silent as to what is acceptable verification of pension income. Under a section titled "Verification sources", DHS regulations specifically identified acceptable verifications for some types of unearned income (e.g. child support, unemployment compensation...) but there was no list of acceptable verifications for retirement income (See BEM 503 at 30). In the absence of specific regulations, it is left to the undersigned to determine whether Claimant sufficiently verified her pension income.

Claimant had two pensions, one for [REDACTED] and one for [REDACTED]. Claimant's bank statement coded the Michigan Health pension income as "PN"; Claimant's [REDACTED] income did not have this notation. DHS researched the matter and discovered that "PN" was coding for pension income. As DHS contended, the failure of the [REDACTED] income to be coded as "PN" tended to make the bank statement insufficient verification of the [REDACTED] pension income.

For all programs, DHS is to count the gross amount of pension income. BEM 503 at 20. A bank statement is not necessarily a verification of gross income. It is reasonable to believe that Claimant's statement verified a net income amount which might have been much smaller than Claimant's gross income. This also tends to support the DHS contention that the bank statement did not sufficiently verify the gross amount of Claimant's pension income.

Also, the VCL sent by DHS listed specific types of acceptable verification for pension income. The VCL did not list a bank statement as an acceptable verification. Though this omission does not mean the bank statement was insufficient, it at least shows that DHS did not lead Claimant to believe that the bank statement would be an acceptable verification of pension income.

On the other hand, Claimant is a senior receiving Retirement, Survivors, Disability Insurance (RSDI). It is unlikely that a deposit marked as [REDACTED] would be anything other than pension income. Also, as Claimant was an ongoing recipient up for a benefit redetermination, DHS presumably previously verified the income and could have matched the income amount on the bank statement to the previous verification.

The undersigned has difficulty in upholding benefit terminations based on debatably insufficient verification submissions. Typically, the undersigned is inclined to give clients the benefit of gray area circumstances when clients make reasonable efforts in meeting the many DHS verification requests. However, in the present case, based on all of the evidence, the undersigned was more persuaded that Claimant's bank statement was insufficient verification of Claimant's pension income. Accordingly, the DHS failure to redetermine Claimant's FAP and MA benefits was proper.

It was discussed at the hearing that DHS may reconsider Claimant's benefit termination and reinstate Claimant's FAP and MA benefits. Despite the undersigned finding favorably for DHS, a change of heart by DHS resulting in benefit reinstatement for Claimant would have no effect on this decision. Also, as discussed during the hearing, Claimant always has the right to reapply for FAP and MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP and MA benefits effective 4/30/11 based on a failure by Claimant to verify retirement income. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 06/10/11

Date Mailed: 06/13/11

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 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.

CG/dj

cc:

