

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No. 201134387  
Issue No. 1018 3008 5003  
Case No. [REDACTED]  
Hearing Date: June 20, 2011  
Macomb County DHS (12)

**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 20, 2011. The claimant appeared and testified; [REDACTED] appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Specialist, appeared and testified.

**ISSUE**

1. Whether DHS properly failed to process Claimant's application for Food Assistance Program (FAP) benefit application following a tardy return of income verifications by Claimant.
2. Whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits due to excess income.
3. Whether Claimant is entitled to request an administrative remedy for State Emergency Relief (SER) when Claimant failed to apply for SER.

**FINDINGS OF FACT**

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

1. On 4/4/11, Claimant completed and submitted an Assistance Application requesting FAP, FIP and SER benefits.
2. Claimant was part of a household of four persons.

3. At the time of application, Claimant's monthly income was \$1506.
4. On 4/16/11, DHS mailed Claimant a Verification Checklist (VCL) (Exhibit 1) requesting verification of Claimant's last 30 days of income (among other items).
5. The VCL gave Claimant until 4/26/11 to return the requested verification.
6. On 5/2/11, DHS denied Claimant's request for FAP benefits due to Claimant's failure to timely submit income verification.
7. On 5/4/11, Claimant returned the requested income verification.
8. On an unspecified date, DHS denied Claimant's request for FIP benefits due to excess income (see Exhibit 2).
9. On an unspecified date, DHS advised Claimant to submit a completed SER application if Claimant wished to pursue SER assistance.
10. Claimant failed to submit the SER application to DHS.
11. On 5/2/11, Claimant requested a hearing concerning FAP, FIP and SER programs.

### **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 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 (RTM). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 5/2011, 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/>.

A request for program benefits begins with the filing of a DHS-1171 or other acceptable form. BAM 110 at 1. Before processing an application, DHS may require a client to verify information within their application. Verification is usually required at application. BAM 130 at 1. DHS must give clients at least ten days to submit verifications. *Id.*

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.*

If the group is ineligible or refuses to cooperate in the application process, DHS is to certify the denial within the standard of promptness to avoid receiving an overdue task in Bridges (the DHS database). BAM 115 at 16. Bridges sends a DHS 1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). *Id.* For FAP benefits, DHS is to send a negative action notice when the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 at 5.

In the present case, there was no dispute that DHS appropriately requested verification of income and that Claimant failed to return the requested verifications by the due date of 4/26/11. It was also not disputed that DHS properly denied Claimant's application for FAP benefits on 5/2/11. What is in doubt is whether DHS properly failed to follow-up on Claimant's 5/4/11 verification submission.

For FAP benefits, DHS is to proceed as follows when a client completes the application process after denial but within 60 days after the application date.

- On or before the 30th day, DHS is to re-register the application, using the original application date and if the client is eligible, determine whether to prorate benefits according to initial benefits policy.
- Between the 31st and 60th days, DHS is to re-register the application, using the date the client completed the process and if the client is eligible, DHS is to prorate benefits from the date the client complied. *Id.*

Claimant applied for FAP benefits on 4/4/11. Claimant submitted the needed income verifications to DHS on 5/4/11, the 30<sup>th</sup> day following the application date. Accordingly, DHS had an obligation to re-register Claimant's application for FAP benefits and to process it in accordance with DHS regulations. The DHS failure to do so is reversible error.

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.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

In the present case, Claimant disputed the denial of FIP benefits based on income. The starting point for a FIP budget is determining the proper FIP payment standard.

The FIP payment standard is the maximum benefit amount that can be received by the benefit group. BEM 515 at 1. It is for shelter, heat, utilities, clothing, food and items for personal care. *Id.* Income is subtracted from the payment standard to determine the grant amount. *Id.*

It was not disputed that Claimant is part of a FIP benefit group of four persons. The payment standard for a four-person benefit group (eligible grantee) is \$597. RFT 210 at 1.

It was not disputed that Claimant's gross monthly employment income at the time of application was [REDACTED]. DHS properly applied a \$200 and 20% disregard making the countable net income [REDACTED]. Because Claimant's net income exceeded the FIP benefit payment standard, DHS properly denied the application for FIP benefits.

Claimant contended that her employment income fluctuated and that she earns considerably less income now. Claimant's argument has no impact on the DHS denial because the income accurately reflected her income at the time of application. Claimant may be eligible for FIP benefits should she choose to reapply.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services policies are found in the Emergency Relief Manual (ERM).

BAM 600 lists the circumstances in which a hearing may be granted. The circumstances are: denial of an application and/or supplemental payments, reduction in the amount of program benefits or service, suspension or termination of program benefits or service, restrictions under which benefits or services are provided or delay of any action beyond standards of promptness. BAM 600 at 3.

The application for SER is the DHS-1514, Application for State Emergency Relief. ERM 103 at 1. All SER applicants must complete this form unless they apply online through MIBridges for an energy-related service. *Id.*

In the present case, Claimant completed an Assistance Application (DHS-1171) requesting SER assistance but not a DHS-1514. Because Claimant never submitted the DHS-1514 to DHS, DHS never made a decision concerning SER assistance. Claimant is not entitled to request an administrative hearing to dispute a decision that DHS never made nor should have made.

The undersigned is somewhat sympathetic to clients who would have no reason to know that a DHS-1514 instead of a DHS-1171 is required to apply for SER assistance. If it was established that DHS failed to inform Claimant of the requirement, the undersigned may be inclined favorably for Claimant concerning the SER issue. In the present case, DHS established that Claimant was advised of the procedures to apply for SER benefits but that Claimant did not follow-up on the DHS advice. Claimant's hearing request concerning SER benefits is dismissed as Claimant failed to establish a basis for an administrative hearing.

**DECISION AND ORDER**

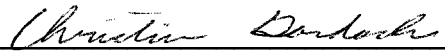
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to establish a basis for an administrative hearing concerning SER. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's application for FIP benefits based on excess income. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to re-register Claimant's application for FAP benefits based on Claimant's 5/4/11 income verification submission. It is ordered that DHS:

- re-register Claimant's application for 4/4/11 for FAP benefits;
- process Claimant's application for FAP benefit eligibility based on previously submitted information by Claimant; and
- supplement Claimant for any FAP benefits not received as a result of the DHS error.

The actions taken by DHS are PARTIALLY REVERSED.

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

Date Signed: June 29, 2011

Date Mailed: June 29, 2011

201134387/CG

**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 of the rehearing decision.

CG/ctl

cc:

[REDACTED]

Macomb County DHS (12)/1843

[REDACTED]

[REDACTED]

Christian Gardocki  
Administrative Hearings