

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: 2011-11399
Issue No: 3008
Case No: [REDACTED]
Hearing Date:
January 20, 2011
SSPC -EAST

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 received by the Department on September 20, 2010. After due notice, a telephone hearing was conducted from Detroit, Michigan on January 20, 2011. The Claimant appeared and testified. Tyra Robinson, Assistant Payments Worker appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case 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 FAP on May 17, 2010.

2. The Department denied the Claimant's FAP application based on the fact that the Fap group's gross income exceeded the gross income limit.
3. In June 2010, the Claimant's spouse lost his employment and the proof of loss of employment was not received and the Claimant's FAP case was denied. The verification was sent May 25, 2010 and was due June 4, 2010.
4. At the hearing, the Claimant agreed that the Department's initial denial of the application was correct as the Claimant's group income exceeded the gross income limit. The Claimant's gross income for the initial budget was \$6,218 and exceeded the gross income limit of \$2,389.
5. The Department's determination denying the FAP application on this basis was correct.
6. At the time of the Claimant's application, the Claimant also indicated that her husband was no longer employed and the verification of loss of employment was due June 4, 2010.
7. The Claimant's spouse filed for unemployment on May 12, 2010.
8. The Claimant provided all the requested information the Department sought verification for except the loss of employment. The Claimant was advised by a Department supervisor that receipt of unemployment benefits should be proof enough. Based on this explanation, the Claimant did not file any further information.

9. The one check in the Department's system did not show the Claimant's husband was receiving benefits on May 28, 2010; however, the receipt of benefits did not show in the system.
10. The Claimant spouse returned to work July 15, 2010.
11. The Claimant requested a hearing on June 15, 2010, protesting the denial of the FAP application and the hearing request was received June 15, 2010.

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 (formerly known as the Family Independence Agency) 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).

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. 6.

The Department is required to verify loss of employment and income at application and when a change is reported. Additionally the Department requested other identification information from the Claimant. Exhibit 1 and 2. If the client fails to verify these items the Department must close the Claimant's FAP application for failure to verify the requested information. BEM 554, p. 11.

In this case, the Department mailed out a Verification of loss of employment but thereafter told the Claimant that proof of receipt of unemployment benefits was enough. When the Department first checked its system to determine if the Claimant was receiving unemployment the system did not show that benefits were being received. The Claimant's spouse began receiving unemployment on May 28, 2010 prior to the FAP application denial on June 6, 2010. The verification checklist was sent to the Claimant on May 26, 2010. The Claimant provided the Department with all the required information and did not provide further loss of employment information as she was told she did not have to. Although the Department never received the requested verification, the Department could have checked in its system or further advised the Claimant what was needed prior to denial the Claimant's case. The Department did not attempt to verify the employment loss by collateral contact with the employer.

In accordance with BEM 500, the Department must verify income at application:

Verify all non-excluded income:

At application, including a program add, prior to authorizing benefits.

There are also exceptions to income verification when all income decreases or stops:

For FIP, RAP, SDA, and FAP, verify income that decreases or stops. Do not verify starting and increasing income unless income change information is unclear, inconsistent or questionable. Select **starting or increasing income** as the verification source. Selecting **client statement** as the verification source results in Bridges incorrectly pending eligibility and generating a Verification Checklist.

Use available electronic methods (for example consolidated inquiry or SOLQ) to verify income. When electronic verification is not available or inconsistent with client statement, the client has primary responsibility for obtaining verification. Do not deny assistance based solely on an employer or other source refusing to verify income; see [BAM 130](#), Verification and Collateral Contacts and [BEM 702](#), CDC Verifications. BEM 500, page 9 and 10.

In this matter the Department knew at application that the Claimant's spouse had lost his employment and that the earned income had ceased. When the Department attempted to verify receipt of unemployment benefits, because of a lag in reporting the benefit payments did not show. Based upon BEM 500 the Department was only required to verify loss or stopping of income not the income received by the group. The problem was further exacerbated when the Claimant was led to believe that receipt of unemployment benefits was enough and that further verification was not required. The Claimant did not contact the employer or ask the claimant to bring proof of receipt of unemployment which was received by the Claimant's spouse prior to the case closure.

Based upon the record as a whole, and the Claimant's credible testimony that she filed all the requested verification information by the due date and was told that

receipt of unemployment benefits would be proof enough by the Department supervisor, there would be no way the Claimant would have ever known that the receipt of unemployment benefits would not show up in time on the UCB report checked by the Department. In short the Claimant's application was denied due to the fact that despite directing the Claimant not to worry about filing the loss of employment verification information, the Department denied the application for that reason. At no time did the Claimant refuse to cooperate exhibit any signs for lack of cooperation.

Based on the evidence presented at the hearing, it is determined that the Claimant did not refuse to cooperate. This is especially true when the Claimant did as she was told and did not worry about the verification as she was led to believe the Department would verify the information based on the receipt by her husband of unemployment benefits.

The undersigned finds that the Department did not properly deny the FAP application in light of the circumstance and that the application must be reinstated by the Department and a determination of eligibility made based upon the unemployment benefits received by the Claimant's spouse and the other verification information previously filed by the Claimant in a timely manner. As the Claimant's spouse returned to work on July 15, 2010 the eligibility for FAP must be determined from the date of the application through the date of the Claimant's spouse's re employment on July 15, 2010.

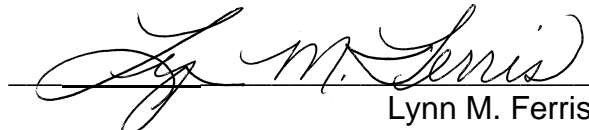
Accordingly, it is found that the Department's denial of the Claimant's FAP application is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly denied the Claimant's FAP application due to failure to provide verifications by the due date and its determination is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reinstate the Claimant's FAP application retroactive to the date of application and determine eligibility of the Claimant to receive FAP benefits.
2. If the Department determines the Claimant is eligible for FAP benefits, it will issue a supplement retroactive to the date of the Claimant's FAP application for any FAP benefits the Claimant was otherwise eligible to receive.


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

Date Signed: 02/09/11

Date Mailed: 02/16/11

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:

