

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: 2011-17707
Issue No: 3008
Case No: [REDACTED]
Hearing Date:
March 2, 2011
Oakland County DHS (03)

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 December 6, 2010. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 2, 2011. The Claimant and his wife [REDACTED] appeared and testified through an interpreter. [REDACTED] appeared as an interpreter for the Claimants. The Department's representative Sharrista Brown, ES also appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance Program (FAP) application for Claimant's failure to return employment income verification and employment verification when due?

FINDINGS OF FACT

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

1. The Claimant filed an application with DHS for FAP in September 2010.

2. The Department sent out three verification checklists attempting to verify the Claimant's gross employment income and income received by the Claimant for rent from his father. Exhibit 1, 2, and 3.
3. In addition the Department case worker and her supervisor contacted the Claimant by telephone to get a correct phone number for the Claimant's employer and were unsuccessful as the Claimant hung up the phone. The Department was attempting to assist the Claimant by contacting the employer.
4. The verification of income provided by the Claimant was not adequate. The check provided by the Claimant did not indicate the time period covered by the wages shown on the check provided and whether the wages were gross wages or net wages. The Verification of income provided was a check, not a pay stub and thus the Department could not verify the correct income amount.
5. The Claimant understands some English and his wife does not understand English.
6. The Claimant's did not request assistance from the Department even though they did not understand some of the information requests.
7. The Claimant did not provide the Department with sufficient information to verify his employment and wages and did not provide the necessary information by the due date and thus the Department correctly denied the Claimant's FAP application on October 12, 2010.

8. On November 16, 2009, the Department received the Claimant's Request for Hearing which protested the Department's denial of the Claimant's FAP application.

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 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 income at application and when a change is reported. BEM 554, p. 11.

In this case, the Department mailed out three verification checklists attempting to determine the amount of earnings the Claimant received. Additionally, the Department separately contacted the Claimant when it could not contact the employer of the Claimant because the correct number was not provided by the claimant. It appears the Department was not unmindful of the language difficulties which might have existed in communicating with the Claimant and attempted to assist the Claimant by calling him directly to get his employer's telephone number so that the Department could contact the employer directly. Because the Department appears to have attempted to assist the claimant and even after three verification checklists could not obtain an accurate income amount the Department was left with no choice but to deny the Claimant's FAP application. The Department three times requested the claimant to provide the Department with information to establish his employment and income from his employment. The claimant did not respond within the time required.

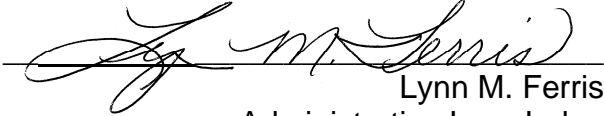
The Claimant is encouraged to reapply for Food Assistance and to seek the assistance of the Department if he does not understand what is required of him. The Claimant is also advised that he can request the Department provide an interpreter to assist him with his communications with the Department if necessary. The Administrative Law Judge is not unmindful of the potential for problems which can arise due to language barriers, however finds that the Department did not ignore the possible difficulties which might have existed and attempted to assist the claimant without success.

Based upon these facts and circumstances and the testimony of the witnesses, it is determined that the Department properly denied the Claimant's FAP application

because the requested information and verifications were not received by the due date. Under these circumstances the Department's action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did support the decision of the Department to deny the Claimant's FAP application for failure to provide verification of income and employment by the verification checklist due date and therefore the Department's decision must be AFFIRMED.


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

Date Signed: 03/04/11

Date Mailed: 03/08/11

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:

