

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-34125
Issue No: 3008
Case No: [REDACTED]
Hearing Date:
June 15, 2011
Wayne County DHS (76)

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 June 15, 2011. The Claimant appeared and testified. Dorothy Brooks, FIS and Terry Young, FIM 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?

Whether the Department properly denied the Claimant's Child Development and Care application for failure to provide employment verification.

Whether the Department properly sanctioned the Claimant for non compliance with work related activities.

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 was an ongoing FAP recipient and her FAP case was closed when the Department did not receive proof of income from employment.
2. The Claimant's fiancé had been removed from the FAP group when he was found in non compliance with work related activities and a three month sanction was imposed. Exhibit. 1 (hearing summary)
3. The Claimant applied for Child Development and Care benefits on March 24, 2011. The Claimant began working [REDACTED], and reported the information by phone to her caseworker.
4. On 4/4/11, after receiving a letter to report to Work First, the Claimant submitted a letter from her employer. CL Exhibit 3
5. The Claimant did not hear from her caseworker so she sent two emails on 4/21/11 and 4/25/11 and did not receive a response. Claimant Exhibit 1 and 3.
6. On 4/22/11, the Claimant received a Notice of Non Compliance with work related activities. The claimant received the notice even though she was working full time as was her fiancé. Exhibit 4
7. The Department sent a verification of employment to the Claimant on 4/4/11, which was due on 4/14/11.
8. The Claimant did not receive the verification of employment,
9. On April 4, 2011, the Department received a verification letter from the Claimant's employer indicating that she would begin employment on [REDACTED] [REDACTED]. CI Exhibit 3
10. The Claimant received her first pay stub on or about [REDACTED], for full 40 hours of pay.
11. In the CDC application, the Claimant listed herself as the only person in her household who was working and receiving income from employment. Exhibit 5
12. The Claimant's household had just completed a semi annual review in the last 30 days and had advised the Department that her fiancé was working and provided information to verify his employment and spreadsheets verifying income and expenses.
13. The Claimant's fiancé was listed in the household and was a parent of a child in the household on Claimant's CDC application.
14. The Department stated in its hearing summary that it denied the Claimant's application for CDC benefits because there was a parent in the household who was not listed as working. The official Application Notice reason stated that the Claimant failed to provide employment verification by the due date. Exhibit 10

15. The Department did not seek verification of income or employment regarding the claimant's fiancé after the Claimant advised the Department by emails sent on April 21 and April 25, 2011 that he was working and was self employed.
16. The Department did not receive the case file from a prior district office which contained the semi annual review information.
17. The Department issued a notice of case action on April 25, 2011, closing the Claimant's FAP case and FIP cash assistance case effective 6/1/11. Exhibit 11
18. The Claimant could not submit any employment check stub for a full 40 hours pay until after [REDACTED].
19. The Claimant requested a hearing on May 4, 2011, protesting the denial of her CDC application and closure of her Food Assistance case.

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).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative

Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Program Reference Manual (PRM).

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, which the Claimant did not receive, seeking verification of employment. The Department was provided a letter from the Claimant's employer advising that the Claimant was to begin work [REDACTED]. After the Claimant began employment, she could not provide the Department with a full 40 hour pay stub until [REDACTED]. The Claimant advised the

Department of this fact. The Department closed the Claimant's FAP case and denied her CDC application on April 25, 2011.

The claimant advised the Department all along as to the situation with her proof of income. Further the Claimant's employer is a large employer and the Department made no effort to check the Work Number to see if it could determine pay information.

The Claimant's CDC application was improperly denied as the Department never sought verification by verification checklist of the Claimant's fiancé's income and the Claimant did not refuse to cooperate or fail to provide employment verification.

After a thorough review of the record, the documents submitted as evidence and the testimony of the witness, it is determined that the Department improperly closed the Claimant's FAP case for failure to verify information because, based on the evidence presented, it is determined that the Claimant did not refuse to cooperate. Accordingly, the Department's determination regarding FAP closure is reversed.

After a thorough review of the hearing record, the documents submitted as evidence by the Department and the Claimant, it is determined that the Department, under these circumstances, improperly denied the Claimant's CDC application for failure to provide information as the Claimant did not refuse to cooperate. Accordingly, the Department's determination regarding denial of the Claimant's CDC application is reversed.

After a thorough review of the hearing record, the documents submitted as evidence by the Department and the Claimant, it is determined that the Department under these circumstances did not support its imposition of a sanction on the Claimant or her fiancé for non compliance with work related activities as the Claimant was

working on [REDACTED], and her fiancé was also working and so advised the Department of same during the semi annual review and by emails on April 21, and April 24, 2011. Therefore, it is determined that the Department improperly imposed on the Claimant or her fiancé a sanction for non compliance with work related activities and its determination in that regard is reversed.

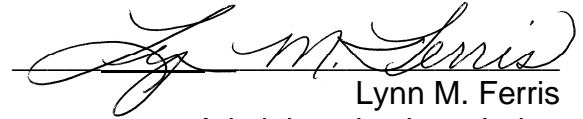
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there was sufficient evidence presented to reverse the Department's closure of the Claimant's FAP case for failure to verify information, and reverse the Department's denial of the Claimant's CDC application. Therefore, the Department's actions by Notice of Case Action dated April 25, 2011, and Application Notice dated April 25, 2011, are REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen and reinstate the Claimant's FAP case retroactive to the date of closure, June 1, 2011, and shall supplement the Claimant for any FAP benefits she was otherwise entitled to receive.
2. The Department shall be entitled to verify any earnings information that it does not currently have or cannot obtain through the work number and which is necessary to determine the Claimant's FAP benefits.
3. The Department shall reopen and reprocess the Claimant's CDC application retroactive to the date of application, March 24, 2011, and determine the Claimant's eligibility for CDC benefits in accordance with Department policy.

4. The Department shall remove any sanction imposed on the Claimant for non compliance with work related activities from its records arising for the Notice of Non Compliance dated April 19, 2011.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/22/11

Date Mailed: 06/24/11

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.

LMF/dj

cc:

