

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

IN THE MATTER OF:



Reg. No.: 201265714
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 27, 2012
County: Wayne DHS (19)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on September 27, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefit eligibility, effective 8/2012, due to an alleged failure to verify employment income for a household member.

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 benefit recipient.
2. Claimant reported to DHS a household that included Claimant's two children.
3. Claimant's children's grandmother reported to DHS that Claimant's household also included the father of Claimant's children.
4. On 6/21/12, DHS mailed Claimant a Verification Checklist requesting employment income for Claimant's children's father.

5. Claimant failed to return the employment income information.
6. On 7/3/12, DHS initiated termination of Claimant's FAP benefit eligibility, effective 8/2012, due to a failure to verify a FAP benefit group member's income.
7. On 7/16/12, Claimant requested a hearing to dispute the 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 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).

DHS is to verify changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. BEM 505 (10/2010), p. 11. The present case concerns an alleged change in Claimant's household members. DHS contended that Claimant's children's father lived with Claimant in 6/2012. Claimant contended that her children's father did not live with her.

DHS stated that Claimant's children's grandmother reported that her son (Claimant's children's father) lived with her, Claimant and Claimant's two children. DHS did not present Claimant's children's grandmother as a witness, but the specialist who interviewed Claimant's children's grandmother testified credibly that the statement was made. Though a finding that the statement was made does not verify the statement's content.

Claimant conceded that the utilities of her residence are in her children's father's name. Claimant stated this was done because Claimant is unable to put the utilities in her own name.

Claimant also conceded that her children's father's identification reflects an address that is the same as Claimant's address. Claimant stated that her children's father did this so he could get lower vehicle insurance rates.

The statement by Claimant's children's grandmother was hearsay and, by itself, is not a highly persuasive statement in establishing the residency of Claimant's children's father. However, when combined with the facts that the residence on Claimant's children's father identification matches Claimant's address and that the utilities are in Claimant's father's name, there was ample evidence to establish that DHS had reason to believe that Claimant's children's father lived with her. Claimant provided a separate address for her children's father but did not present any documents to verify that her children's

father lived outside of her household. Based on the presented evidence, DHS established a basis for requesting verification of Claimant's children's father's income.

DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5-2012), p. 3. DHS must give clients at least ten days to submit verifications. *Id.* DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 2. For FAP benefits, DHS is to send a negative action notice when:

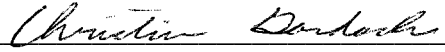
- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it. (*Id.*, p. 5.)

Claimant contended that she never received a Verification Checklist requesting her children's father's employment income. During the hearing, DHS printed copies of two Verification Checklists that were mailed to Claimant's address, one on 6/21/12 and one on 6/22/12. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). DHS established a presumption that multiple Verification Checklists were mailed to Claimant.

Claimant testified that she received neither mailed checklist. Claimant suggested that her children's grandmother may have received the documents but failed to give them to Claimant. Claimant's testimony is insufficient to rebut the DHS presumption. It is found that Claimant received the Verification Checklists and failed to make any efforts in verifying the DHS request for her children's father's income. Accordingly, the FAP benefit termination is found to be proper.

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 benefit eligibility, effective 8/2012, due to Claimant's failure to verify income information for her children's father. The actions taken by DHS are AFFIRMED.


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

Date Signed: 10/5/2012

Date Mailed: 10/5/2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

