

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

IN THE MATTER OF:



Reg. No.: 201271715
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 19, 2012
County: Oakland DHS (02)

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 19, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefit eligibility due to an alleged failure to verify income.

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. On an unspecified date, DHS interviewed Claimant concerning a redetermination of FAP benefit eligibility.
3. Claimant informed DHS that he received financial assistance from his mother in the form of monies paid for property taxes and utilities for Claimant's residence.
4. On 6/27/12, DHS mailed Claimant a Verification Checklist requesting a statement from Claimant's mother concerning the financial help that Claimant received from his mother.

5. On 7/3/12, Claimant submitted a letter from his mother (Exhibit 1) stating that his mother paid property taxes and utilities while her son was unemployed.
6. On 8/1/12, DHS initiated termination of Claimant's FAP benefit eligibility effective 8/2012 due to an alleged failure by Claimant to verify income.
7. On 8/13/12, Claimant requested a hearing to dispute the FAP benefit termination.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. Department policies are contained in the Bridges Administrative Manual (BAM) and the Bridges Eligibility Manual (BEM).

DHS is to verify income at application and at redetermination. BEM 505 (10-2010), p 11. Income means a benefit or payment received by an individual which is measured in money. *Id.*, p. 3. It includes money an individual owns even if not paid directly such as income paid to a representative. *Id.*

The present case concerns an issue of income verification. DHS contended that Claimant received income from his mother and that he failed to provide DHS with specific information concerning the payment amounts. Claimant contended that he does not receive income from his mother, but that she sends payments directly to Claimant's utility service provider and for payment of property taxes. It should be noted that Claimant's mother owns the home in which Claimant resides.

DHS implied that Claimant stated during a FAP benefit redetermination interview that he received money directly from his mother. DHS had no evidence to support the implication. DHS conceded that the specialist who interviewed Claimant was not available and no other evidence tended to verify such a statement by Claimant. The only first-hand evidence to suggest what Claimant reported to DHS was Claimant's testimony and a written statement (Exhibit 1) from Claimant's mother; both sources indicated that Claimant received no monies directly from his mother. It is found that Claimant's mother does not give Claimant any income.

Claimant's mother's payments towards Claimant's utility services and property taxes do not meet the definition of income. Thus, DHS would have no reason to verify the payments. If DHS has no reason to verify the payments, then DHS could not take an adverse action on Claimant's FAP benefit eligibility due to an alleged failure to verify the payments. Accordingly, the FAP benefit termination was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefit eligibility effective 8/2012. It is ordered that DHS:

- (1) reinstate Claimant's FAP benefit eligibility effective 8/2012, subject to the finding that Claimant's mother's payments towards property taxes and utilities do not qualify as income for Claimant which requires verification; and
- (2) supplement Claimant for any FAP benefits not received as a result of the improper benefit termination.

The actions taken by DHS are REVERSED.



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

Date Signed: September 24, 2012

Date Mailed: September 24, 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

201271715/CG

CG/hw

cc:

