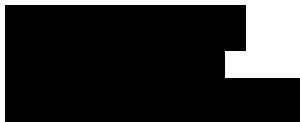


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201222021
Issue No.: 3008, 3014
Case No.: [REDACTED]
Hearing Date: January 26, 2012
Wayne County DHS (49)

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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on January 26, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. The first issue is whether DHS properly terminated ongoing Food Assistance Program (FAP) benefits due to an alleged failure by Claimant to verify income for her daughter.
2. The second issue is whether DHS properly determined Claimant's FAP benefit issuance for 2/2012 based on a household size of two persons.

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 was part of a household that included herself, a minor child and two other college-aged children.
3. On an unspecified date, DHS terminated Claimant's ongoing FAP benefits effective 10/2011 due to an alleged failure to verify either work study income or employment income for Claimant's daughter.

4. On 12/5/11, Claimant reapplied for FAP benefits.
5. On an unspecified date, DHS approved FAP benefits to Claimant effective 12/5/11.
6. In 1/2012, Claimant's two college-aged children did not live with Claimant.
7. On an unspecified date, DHS determined Claimant's FAP benefits for 2/2012 based on a two person household.
8. On 1/3/12, DHS Claimant requested a hearing to dispute the FAP benefit issuance for 2/2012 and the closure of FAP benefits effective 10/2011

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). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 2. DHS is to use the DHS-3503, Verification Checklist (VCL) to request verification. *Id.* at 3. For FAP benefits, DHS is to send a negative action notice when the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 at 5.

In the present case, DHS testified that they terminated Claimant's FAP benefits effective 10/2011 due to an alleged failure by Claimant to verify either her daughter's work study income or employment income. It was not disputed that Claimant's daughter's employer was one that participated with the worknumber.com. It should be noted that worknumber.com is a resource that allows DHS to verify client income information from participating employers

For all programs, Bridges (the DHS database) excludes wages that are earned as part of a post secondary education financial assistance package (i.e. work study). BEM 501 at 6. DHS could not explain why an alleged failure to verify excludable income (Claimant's daughter's work study) was a basis for case closure. Verification is not

required for excluded income and assets unless needed to establish the exclusion. There was no evidence that DHS needed to verify the income to establish the exclusion.

DHS policy states that clients are responsible for providing employment information and that worknumber.com need not be checked at application, redetermination, semi-annual or mid-certification contact. BEM 501 at 6. DHS regulations further state that clients have the primary responsibility for obtaining verification. *Id.*

DHS indicated that the current case involved a wage match, not an application or review of benefits; this tends to support that DHS should have obtained Claimant's daughter's income information from worknumber.com rather than requesting verification of it from Claimant. The evidence also tended to show that DHS knew that Claimant's daughter's employment income could be verified by the Work Number but for some reason, it was not utilized. Based on the presented evidence, it is found that DHS improperly terminated Claimant's ongoing FAP benefits based on an alleged failure to verify her daughter's income.

Claimant also raised a second FAP issue. Claimant contended that DHS improperly issued 2/2011 FAP benefits based on a two person household; Claimant contended that DHS should have issued FAP benefits based on a four person household that included her two children that attended college.

Claimant conceded that her oldest son stopped living with her as of 1/2012. Thus, DHS certainly had basis to exclude him from the FAP benefit determination for 2/2012.

Claimant initially contended that her daughter lived with her. Claimant testified that her daughter attends college on a full-time basis three hours away from Claimant's home but that she has to return home often due to medical appointments. After questioning the feasibility of such circumstances, Claimant essentially conceded that her daughter does not live with her by stating that she "is fine" with the 2/2012 FAP benefit determination. Based on Claimant's concessions, it is found that DHS properly issued 2/2012 FAP benefits based on a two person group that excluded her two college-aged children.

It should be noted that Claimant's concession concerning her daughter not living with her was half-hearted. If Claimant's daughter truly lives with her, Claimant should report this change to DHS along with any supporting verification.

It is also worth noting that DHS excluded Claimant's two children based on an issue of student status. The student status issue does not appear to apply to Claimant's daughter because work study is an exception to student status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefits effective 2/2012 based on a two person household. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefits effective 10/2011 due to a failure by Claimant to verify income. It is ordered that DHS:

- (1) reinstate Claimant's FAP benefits effective 10/2011;
- (2) determine Claimant's FAP benefit eligibility based on the finding that work study income is excluded and on yet to be obtained information from the Worknumber.com; and
- (3) supplement Claimant for any benefits not received as a result of the improper termination.

The actions taken by DHS are PARTIALLY REVERSED.



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

Date Signed: January 27, 2012

Date Mailed: January 27, 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.

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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 to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

