

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201229711
Issue No.: 3026
Case No.: [REDACTED]
Hearing Date: February 29, 2012
County: Macomb DHS (36)

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 February 29, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant; [REDACTED] appeared and testified on behalf of Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Manager.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

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

1. Claimant applied for was receiving: FIP FAP MA SDA CDC.
2. Claimant was was not provided with a Verification Checklist (DHS-3503).
3. Claimant was required to submit requested verification by 1/6/12.

4. On 1/11/12, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefitsfor failure to submit verification in a timely manner.

5. On 1/11/12, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.

6. On 1/23/12, Claimant filed a hearing request, protesting the
 - denial. closure. reduction.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 1999 AC, Rule 400.3001 through Rule 400.3015.

The present case involves an alleged failure by Claimant to verify self-employment income. It was not disputed that DHS requested verification of self-employment from Claimant via Verification Checklist. It was also not disputed that Claimant responded to receipt of the VCL by calling her DHS specialist. Claimant credibly testified that the DHS specialist advised her that she could satisfy the verification requirement by submitting a notarized statement signed by Claimant's spouse indicating that the business had no income. It was not disputed that Claimant submitted a statement (see Exhibit C1) which complied with what she claims that DHS verbally requested.

DHS responded that something slightly more specific than what Claimant submitted was requested. DHS contended that the submitted verification needed a precise start date for the business and required the signatures of Claimant and her spouse. The submitted statement was only signed by Claimant's spouse and referred to a 2010 start of the business; DHS indicated that a precise start date was expected.

Prior to an analysis of testimony and policy, some background information concerning the business is appropriate. Claimant stated that her husband tried to make extra money involving stamped concrete. Her husband testified that he made up business cards and flyers in an attempt to drum up business. He stated that since the business

started, the business has received \$0 income, though the business is still technically active. Claimant characterized the business as her husband's rather than her own.

There was little basis for either of the DHS specified requirements. A requirement for Claimant's signature on the statement that the business had \$0 income is superfluous. DHS could not produce a valid reason for requiring Claimant's signature beyond her husband's signature. DHS stated that precise start date was necessary to establish whether Claimant received an overissuance of FAP benefits in prior months. The start date was irrelevant to ongoing FAP benefits; what income Claimant received two years ago would not prevent DHS from determining ongoing FAP benefit eligibility. More importantly, the start date was irrelevant as long as the business had \$0 income.

Based on the presented evidence, it is found that Claimant complied with the DHS self-employment verification request. Accordingly, it is found that DHS erred in terminating Claimant's FAP benefit eligibility for allegedly failing to verify self-employment income.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly improperly

- closed Claimant's case.
- denied Claimant's application.
- reduced Claimant's benefits.

DECISION AND ORDER

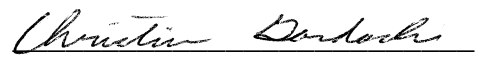
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. reinstate Claimant's FAP benefit eligibility effective 2/2012 subject to the finding that Claimant complied with the verification of self-employment income; and
2. process Claimant's ongoing FAP benefit eligibility including supplementing Claimant for any benefits not received as a result of the improper FAP benefit termination.


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

Date Signed: March 2, 2012

Date Mailed: March 2, 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 to:

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

CG/hw

cc:

