

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

IN THE MATTER OF:



Reg. No.: 201230320
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 1, 2012
County: Wayne DHS (57)

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 March 1, 2012 from Detroit, Michigan. Participants on behalf of Claimant 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 FAP benefit eligibility effective 2/2012 based on an alleged failure to verify employment 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 11/18/11, DHS mailed Claimant a New Hire Client Notice (Exhibit 1) to verify previously unreported employment.
3. On 11/25/11, Claimant returned the New Hire Client Notice, but not any pay stubs from the employment at issue.
4. DHS made two subsequent and unsuccessful attempts to obtain Claimant's employment information directly from the employer.
5. On 1/10/12, DHS initiated a termination of Claimant's FAP benefit eligibility effective 2/2012.

6. On 1/30/12, Claimant requested a hearing to dispute the FAP benefit termination.

CONCLUSIONS OF LAW

Department policies are contained 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 Mich Admin Code, R 400.3001 through R 400.3015.

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 at 1. New Hires is a daily data exchange with Michigan Department of Treasury. *Id.* New Hires information is used to determine current income sources for active DHS clients. *Id.* If a SSN match is found on Bridges and the New Hires database, a New Hires match is created if there is no earned income reflected in Bridges. *Id.*

When a New Hire hit is made, DHS specialist are to contact the client immediately if the employment has not been previously reported. *Id.* The specialist is then to request verification by generating a DHS-4635, New Hire Notice, from Bridges. *Id.* When a DHS-4635 is requested, Bridges automatically gives the client 10 calendar days to provide verification from the date the forms were requested. *Id.*

There were no disputed facts. It was agreed that DHS mailed Claimant a New Hire Client Notice (DHS-4785) (Exhibit 1) on 10/18/11 and that Claimant timely returned the form. Claimant noted on the DHS-4785 that he remained "on call" for his job. Claimant did not return any pay stubs with the DHS-4785 because he stated that he had thrown them out. DHS subsequently contacted Claimant's employer concerning pay information; the employer failed to respond. DHS subsequently initiated termination of Claimant's FAP benefit eligibility.

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. DHS supported the termination based on Claimant's failure to return verification (i.e. pay stubs) in addition to the DHS-4785. The DHS-4785 notes "If you have already received a paycheck, return the pay stubs with the completed form."

Claimant responded that the relevant employment involved a job he had worked at for a total of 24 hours and was not ongoing employment. Claimant noted on the DHS-4635 that he remained on call but clarified that as of the hearing date, he has not worked again for the employer.

Claimant also testified that whatever stubs he received from his employer, he had discarded. Thus, he could not submit to DHS what he did not have.

It should be noted that verifications other than the DHS-4635 itself are not specifically required in New Hire policy. Thus, DHS regulations do not appear to support a requirement to return pay stubs. This interpretation also appears to be supported elsewhere in DHS regulations.

DHS is to verify income at application and at redetermination. BEM 505 at 11. DHS is to verify changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. *Id.* The specific failure by DHS regulation to include income increases as a circumstance when verification is required implies that verifications are not required for income increases.

Further support for Claimant is found in the DHS regulations which discuss verifications. If neither the client nor DHS can obtain verification despite a reasonable effort, DHS is to use the best available information. BAM 130 at 3. If no evidence is available, the DHS specialist is directed to use best judgment. *Id.* Thus, DHS could have relied on Claimant's completed DHS-4635 as the best available information to prospect Claimant's income; instead, DHS closed the ongoing FAP benefits.

Based on the aforementioned facts and policy analysis, it is found that Claimant neither refused nor failed to make reasonable efforts in providing debatably required pay stub information. Accordingly, the DHS FAP benefit termination was improper.

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 not act properly when terminating Claimant's FAP benefit eligibility effective 2/2012

Accordingly, the Department's AMP FIP FAP MA SDA CDC 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;
2. process Claimant's ongoing eligibility subject to the finding that Claimant's returned DHS-4635 was the best available evidence to prospect Claimant's income; and

3. supplement Claimant for any FAP benefits not received as a result of the improper benefit closure.

Christian Gardocki

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

Date Signed: March 7, 2012

Date Mailed: March 7, 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:

