

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No: 201237663
Issue No: 3008
Case No: [REDACTED]
Hearing Date: April 3, 2012
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on April 3, 2012. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) case beginning February 1, 2012, for failure to provide required verifications?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
2. On January 30, 2012, the Department ran a wage match on Claimant. The match showed that Claimant had employment income from: [REDACTED] only during the first quarter of 2011; [REDACTED], only during the first quarter of 2011; [REDACTED], only during the third quarter of 2011; and [REDACTED], during the fourth quarter of 2011. Claimant was sent a Verification Checklist (DHS Form 3503) for her rent verification along with a Verification of Employment (DHS Form 38) form for each of the four employers. The comments section of Verification Checklist (DHS Form 3503) stated that must return the Verification of Employment (DHS Form 38) forms for the four employers by February 9, 2012 or her FAP would not be approved in February until all the forms were returned completed.
3. On February 8, 2012, the Department received the Verification of Employment (DHS Form 38) from Claimant's current employer [REDACTED].

4. On February 9, 2012, Claimant submitted: a letter from the manager of [REDACTED]; a copy of her [REDACTED] from [REDACTED]; a copy of her [REDACTED] from [REDACTED]; and a note explanation that [REDACTED] was no longer open and stating she hoped this was enough but if not to let her know.
5. On February 24, 2012, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program (FAP) was closed beginning February 1, 2012. The notice stated the reason for the action was that Claimant had failed to verify or allow the Department to verify necessary information.
6. On February 27, 2012, Claimant submitted a request for hearing.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case, Claimant's Department case worker, Ms. Callaway, was present for the hearing and testified that Claimant's FAP case was being re-determined. Two separate FAP financial eligibility budgets were submitted by the Department. Both had been printed out on March 7, 2012, listed a review date of January 31, 2012, and showed [REDACTED] income and a net benefit amount of [REDACTED]. One listed a certification period of February 24, 2011 - with a terminated eligibility status and a benefit period of February 1, 2012 – February 29, 2012 (Pages 7 & 8) The other budget listed a certification period of February 24, 2011 – January 31, 2012 with a an approved eligibility status and a benefit period of October 1, 2011 – January 31, 2012 (Pages 5 & 6). The Department case worker and her supervisor placed heavy emphasis on their assertion that Claimant had not reported any of the four employers.

BAM 210 REDETERMINATION/EX PARTE REVIEW DEPARTMENT POLICY

All Types of Assistance (TOA)

The Department of Human Services must periodically redetermine an individual's eligibility for active TOA. The redetermination process includes thorough review of all eligibility factors.

Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active TOA.

However, the client **must** complete a DHS-1171, Assistance Application, to request a TOA that is not active at the time of redetermination.

REDETERMINATION CYCLE All TOA

A complete redetermination is required at least every 12 months. Bridges sets the redetermination date according to **benefit periods**; see **eligibility decisions** in BAM 115.

FAP Only

Benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. If the client does not complete the redetermination process, allow the benefit period to expire. The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, or DHS-2063B, Food Assistance Benefits Redetermination Filing Record.

FAP TIMELY AND UNTIMELY FILING DATE FAP Only

Timely Filing Date

In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month.

Exception: If you mail the client's redetermination materials late, the timely filing date is 17 days **after** you mailed the materials.

Example: Madison's FAP redetermination is due in July. You mail the redetermination materials July 6th with a due date of July 16th on the DHS-3503. Madison returns all necessary items needed to complete her review on July 20th. Her filing date is timely because you mailed her review materials late. Her benefits must be available to her on the scheduled issuance date.

When processing a redetermination for FAP and FIP, SDA, MA, or AMP, consider the FAP redetermination filed timely if it is filed timely for the other program; see FAP Client Failure to Meet Redetermination Requirements.

Untimely Filing Date FAP Only

Any FAP redetermination form **not** submitted timely (see above) has the same processing timeframe as an initial application (30 days); see Client Failure to Meet Redetermination Requirements.

VERIFICATIONS DEADLINE FAP Only

Verifications must be provided by the end of the current benefit period **or** within 10 days after they are requested, whichever allows more time. If the 10th day falls on a weekend or holiday, the verification will not be due until the next business day. If verifications are provided by the required deadline but too late for normal benefit issuance, benefits must be issued within five workdays.

COMPLETING THE REDETERMINATION All TOA

To complete the redetermination process, do **all** of the following:

- Obtain a DHS-1171, DHS-1010 or other review document,
- Record packet received by selecting that item from the left navigation in Bridges and entering the date you received the requested review form.
- Review, document and verify eligibility factors as required.
- **Except for Healthy Kids**, check **all** available automated systems matches to see if income has started, stopped or changed, such as consolidated inquiry, SOLQ, etc.

Note: The Work Number is **not** an automated system match which must be checked at application, redetermination, semi-annual or midcertification contact. The client has primary responsibility for obtaining verification. However, if for example, verification of income is not available because the employer uses the Work Number and won't provide the employment information, it is appropriate to use the Work Number.

Do not deny or terminate assistance because an employer or other source refuses to verify income; see BAM 130,

VERIFICATION AND COLLATERAL CONTACTS and BEM 702, CDC VERIFICATIONS.

- Update data collection by recording changes in circumstances and entering verifications received.
- Run EDBC in Bridges.
- Certify EDBC results if appropriate.
- Review the need for services and other assistance programs. Bridges generates a verification checklist (VCL) for any missing verifications.

STANDARD OF PROMPTNESS

All TOA

Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. This allows time to process the redetermination before the end of the redetermination month.

FAP Only

The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. If timely redetermination procedures are met but too late to meet the normal issuance date, issue benefits within five workdays. Bridges will issue a payment for lost benefits if the client is **not** at fault for delayed processing that prevented participation in the first month.

FAP CLIENT FAILURE TO MEET REDETERMINATION REQUIREMENTS

FAP Only Delays

The group loses their right to uninterrupted FAP benefits if they fail to do any of the following:

- File the FAP redetermination by the timely filing date.
- Participate in the scheduled interview.
- Submit verifications timely, provided the requested submittal date is **after** the timely filing date.

Any of these reasons can cause a delay in processing the redetermination. When the group is at fault for the delay, you have 30 days to complete the redetermination. If there is no refusal to cooperate and the group complies by the 30th day, issue benefits within 30 days. Benefits are not prorated.

According to the testimony of Claimant's Department case worker, the action being taken on Claimants Food Assistance Program (FAP) case was a re-determination of eligibility for benefits. The Department representatives also testified that verification that Claimant's income from [REDACTED] was the reason her FAP case was closed. A redetermination of continuing eligibility involves verifying current (within the last 30 days) income. The Department had a wage math which shows that Claimant only had one source of income during the fourth quarter of 2011 and that she had not received any income from Champs during the fourth quarter of 2011.

While the Department may chose to investigate any possible over-issuance caused by Claimant's failure to report income from employment, the Department had adequate verification of her current income to use in determining her eligibility for future benefits. The Department has not shown that the absence of a Verification of Employment (DHS Form 38) directly from Champs was a valid reason to terminate Claimants future eligibility for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly close Claimant's Food Assistance Program (FAP) case beginning February 1, 2012, for failure to provide required verifications.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that Claimant's eligibility for Food Assistance Program (FAP) benefits beginning February 1, 2012 be recalculated in accordance with Department policy using her verified current income from [REDACTED] which they had at the time of this incorrect action. Any Food Assistance Program (FAP) benefits Claimant is determined to have been eligible for, but did not receive, because of this incorrect action will be supplemented.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 9, 2012

Date Mailed: April 9, 2012

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or

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reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

GFH/tb

cc:

