

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201255686
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 12, 2012
County: Washtenaw DHS (20)

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, an in-person hearing was held on July 12, 2012 from Ypsilanti, Michigan. Participants included the above named claimant. [REDACTED] testified and appeared as Claimant's translator. [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). [REDACTED] also appeared as an AHR. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly denied Claimant's application for Food Assistance Program (FAP) benefits due to an alleged failure to verify information and/or fail to cooperate with child support.

FINDINGS OF FACT

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

1. On 4/5/12, Claimant applied for FAP benefits.
2. On 4/25/12, DHS mailed Claimant a Verification Checklist (VCL) requesting various items including verification of Claimant's mother's income.
3. The VCL also informed Claimant to contact the Office of Child Support (OCS) concerning paternity for her oldest child.
4. The due date for the VCL was 5/7/12.

5. On 5/7/12, DHS denied Claimant's application due to alleged Claimant failures to submit verification of her mother's income and to contact OCS.
6. On 5/22/12, Claimant requested a hearing to dispute the application failure.

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).

The present case concerns a dispute of a FAP benefit application. DHS denied the application for alleged failures by Claimant to submit verification of income for her mother and to contact child support concerning paternity of her oldest child.

For FAP benefits, DHS is to verify income at application and at redetermination. BEM 505 at 11. It was not disputed that the present case involved an application for FAP benefits; thus, DHS had a right to verify household income. It was also not disputed that Claimant's mother was part of the FAP benefit group, thus, Claimant's mother's income is relevant to determining eligibility for FAP benefits. What is in doubt is whether DHS had a need to verify the income.

DHS is to verify income that stopped within the 30 days prior to the application date or while the application is pending before certifying the group. *Id.* This policy creates a clear cut-off for the period from which DHS may request income verification. Any income received by a FAP benefit group member prior to 30 days of an application date is irrelevant to a FAP benefit determination.

Claimant testified that her mother had no income at the time of her application or in the 30 days prior. It was not disputed that Claimant did not list income for her mother on the FAP benefit application. DHS stated that the request for income verification was prompted by the DHS database, Bridges. Presumably, the DHS database budgeted the income at some unspecified time in the past. DHS essentially contended that an income verification request by Bridges is a valid request. The validity of DHS actions is dictated by DHS regulations, not by what their database does. Based on the DHS regulations, the request was unnecessary because it was not established that the income was received within 30 days of the application date. If a verification request is unnecessary, then DHS may not take an adverse action due to an alleged failure to comply with the request. It is found that the DHS denial based on failure to verify income was improper.

DHS also contended that Claimant's FAP benefit application was properly denied due to Claimant's alleged failure to cooperate with establishing child support for her oldest child. Office of Child Support (OCS) policies are located in the Combined IV-D Policy Manual (4DM) and Child Support Manual (CSM).

Federal and state laws and regulations require that applicants and recipients of FIP, MA, CDC and FAP benefits cooperate with OCS in obtaining child support as a condition of benefit eligibility. 4DM 115 at 1. The goal of the cooperation requirement is to obtain child support. Information provided by the client provides a basis for determining the appropriate support action. *Id.* Cooperation from the client will enhance and expedite the process of establishing paternity and obtaining support. *Id.*

The Child Support Specialist obtains information and determines a client's cooperation except for issues of client received support and applications by day care clients. *Id.* at 3. The Support Specialist is required to inform the client of the obligation to cooperate in providing information and taking actions to obtain support. *Id.* at 4. The Support Specialist must also inform the client about support disqualifications and the possibility that the agency will proceed with support action without client cooperation. *Id.*

Cooperation includes, but is not limited to: identifying the non-custodial parent or alleged father, locating the non-custodial parent (including necessary identifying information and whereabouts, if known), appearing at reasonable times and places as requested to provide information or take legal action (e.g., appearing at the office of the Support Specialist, the Prosecuting Attorney, or the Friend of the Court, or as a witness or complainant at a legal proceeding) and providing all known, possessed or reasonably obtainable information upon request which relates to establishing paternity and /or securing support. *Id.* at 2. Non-cooperation exists when: a client willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. *Id.* OCS and DHS policy is to find a client out of compliance with the cooperation requirement only as a last resort. *Id.* at 1.

DHS established that Claimant was found uncooperative with establishing child support for her oldest child in 2006 and that the disqualification was never resolved. It must be determined whether Claimant became cooperative with establishing child support following the submission of a FAP benefit application dated 4/5/12.

At application, clients have 10 days to cooperate with the OCS. BEM 225 at 10. Bridges informs the client to contact the OCS in the verification check list (VCL). *Id.* The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true (*Id.*):

- there is a begin date of non-cooperation in the absent parent logical unit of work;
- there is not a subsequent comply date;
- support/paternity action is still a factor in the child's eligibility; and
- good cause has not been granted nor is a claim pending.

Claimant testified that she called the phone number provided for OCS but that she was unable to bypass the prompts so that she could speak with a child support specialist. Specifically, Claimant contended that the OCS phone system requires entry of a social security number before speaking with a support specialist. It was not disputed that Claimant does not have a social security number. Claimant's AHR testified to having the same problem when she attempted to call. The OCS telephone number was called during the hearing and it was established that the telephone system for OCS would not allow connection to an OCS specialist without the entry of a social security number. This was persuasive evidence that Claimant attempted to be cooperative with establishing child support.

Claimant also provided credible testimony that she attempted to call her assigned benefit specialist with paternity information but was referred back to OCS. Claimant's testimony was credible and unrefuted. Between calling OCS and her benefit specialist, it is not known what more Claimant could have done to become cooperative. The ultimate failure to establish communication between the parties rested much more with DHS than with Claimant. It is found that Claimant was cooperative in her communications with DHS concerning child support.


It was not disputed that Claimant's FAP benefit application was denied for failing to verify income and for failing to cooperate with child support. It has been found that DHS had no basis to request verification of income older than 30 days from the application date and that Claimant was cooperative in her communications concerning child support. Accordingly, Claimant's FAP benefit application denial was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FAP benefits. It is ordered that DHS:

- (1) reinstate Claimant's application dated 4/5/12 for FAP benefits;
- (2) process Claimant's application subject to the finding that DHS had no basis to request verification of Claimant's mother's stopped income which was older than 30 days from the application date;
- (3) process Claimant's application subject to the finding that Claimant became cooperative with establishing child support within 10 days of 4/5/12; and
- (4) supplement Claimant for any FAP benefits not received due to the improper application denial.

The actions taken by DHS are REVERSED.


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

Date Signed: July 17, 2012

Date Mailed: July 17, 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:

