

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201265075
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 27, 2012
County: Wayne DHS (35)

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 August 27, 2012 from Detroit, Michigan. Participants 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 Food Assistance Program (FAP) benefit eligibility due to a failure to verify stopped employment.

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. DHS requested verification of Claimant's stopped employment income with a restaurant
3. The due date to verify the stopped income was 7/5/12.
4. Claimant failed to verify the income stoppage but previously reported that her employer was out of business and that she had no way to verify that her employment income stopped.

5. On 7/12/12, DHS initiated termination of Claimant's FAP benefit eligibility effective 8/2012 due to Claimant's failure to verify the employment income stoppage.
6. On 7/16/12, Claimant requested a hearing to dispute the case action from 7/12/12.

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 an issue of FAP benefit eligibility termination. It was not disputed that DHS was administratively ordered to reinstate Claimant's FAP benefit eligibility and to give Claimant an opportunity to verify stopped employment income. It was not disputed that DHS made a request to verify the stopped income and that Claimant failed to submit documentation verifying the employment income stoppage.

DHS is to verify changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. BEM 505 (10/2010), p. 11. DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), p. 3. DHS must give clients at least ten days to submit verifications. *Id.* DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2. It was not disputed that DHS met these procedural requirements in requesting Claimant's verification of stopped employment.

Claimant responded that she was unable to submit a verification of stoppage in employment because her former employer is no longer in business. Generally, it is not feasible for an employee to obtain documentation from an employer when the employer shut-down the business. Claimant also testified that she has not received her final pay check; this tends to establish that the former employer did not close the business on cooperative terms with their employees and increases the likelihood that Claimant could not reasonably obtain verification of an employment stoppage. DHS policy addresses circumstances when verification is not obtainable.

The client must obtain required verification, but DHS must assist if clients need and request help. *Id.*, p. 3. If neither the client nor DHS can obtain verification despite a reasonable effort, DHS is to use the best available information. *Id.* If no evidence is available, DHS is to use best judgment. *Id.*

DHS contended that Claimant was advised to apply for unemployment compensation benefits as a way to verify the stopped employment. DHS contended that the Michigan

Unemployment Agency (MUA) has the means to verify whether Claimant no longer works for her former employer. Claimant responded that she found new employment and did not see a point in applying for benefits that she knew she would not receive.

An alternative method to verify the stopped employment would have been for DHS to call the employer. It would seem that a simple phone call could have verified whether the employer was operational or not. DHS conceded that no attempt was made to contact the employer. Though the burden generally falls on a client to verify information, DHS has the obligation to assist the client. Under the present circumstances, it would be more reasonable to expect DHS to call Claimant's former employer than to have Claimant apply for UC benefits as a way to verify the employment stoppage. Accordingly, it is found that DHS failed to assist Claimant in obtaining verification.

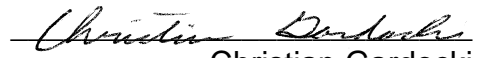
It was not disputed that the FAP benefit termination was the result of Claimant's failure to submit verification of stopped employment income. Based on the finding that DHS failed to assist Claimant in obtaining the verification, the benefit termination is found to be improper.

DECISION AND ORDER

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

- (1) reinstate Claimant's FAP benefit eligibility, effective 8/2012, subject to the finding that DHS failed to assist in verifying Claimant's employment income stoppage; and
- (2) supplement Claimant for any FAP benefits not received as a result of the improper termination.

The actions taken by DHS are REVERSED.


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

Date Signed: August 29, 2012

Date Mailed: August 29, 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

