

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201269146
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 10, 2012
County: Wayne DHS (19)

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 September 10, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for 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. On 5/31/12, Claimant applied for FAP benefits.
2. On an unspecified date, DHS approved Claimant for expedited FAP benefits through 6/2012.
3. On 6/4/12, DHS mailed Claimant a Verification Checklist requesting verification of Claimant's stopped employment with his most recent employer.
4. On a date between 6/14/12 and 6/21/12, Claimant submitted a Verification of Employment to DHS.
5. DHS misplaced Claimant's submission.

6. On 7/6/12, DHS terminated Claimant's eligibility for FAP benefits, effective 7/2012, based on Claimant's alleged failure to verify stopped employment.
7. On 8/6/12, Claimant requested a hearing to dispute the FAP benefit termination.

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).

DHS is to verify income at application and at redetermination. 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.* at 2. For FAP benefits, DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it. (*Id.*, p. 5.)

The present case concerns a termination of FAP benefits following an expedited opening of FAP benefits. The basis for termination was an alleged failure by Claimant to verify stopped employment income. It was not disputed that the DHS request to verify stopped employment income was proper. The only dispute was whether Claimant submitted the verification of stopped employment to DHS. Claimant contends that he did; DHS contended that Claimant did not.

Claimant testified that sometime between 6/14/12 and 6/21/12, he dropped off several documents to DHS including a Verification of Employment form which verified that his employment income stopped. Claimant stated that he submitted the document in a drop-box located in the local office lobby. Claimant stated that he signed a log, which would verify his submission. DHS obtained the drop-box records from 6/14/12-6/21/12 and had the records available in the hearing room. Claimant's signature was not found on the drop-box log.

Despite the absence of Claimant's signature on the log, it is possible that Claimant forgot to sign the log and that DHS subsequently misplaced the submission. Claimant recalled that he submitted the documents on a Thursday or Friday because those were the days he did not have to watch his child. Claimant stated that he assumed everything was fine until a couple of weeks later when he received the FAP benefit termination notice; the time between Claimant's alleged submission and Notice of Case Action was

approximately two weeks. Claimant also gave persuasive testimony concerning his attempts to contact his specialist after receiving the notice and his attempts to request a hearing.

Claimant also brought a copy of the Verification of Employment to the hearing. The document was dated by Claimant's former employer in early 6/2012. The signature date on the form is consistent with a submission in the middle of 6/2012.

Claimant also testified that DHS misplaced his first request for a hearing. If DHS lost Claimant's first hearing request, it makes it more likely that DHS would have misplaced Claimant's submitted documents. In analyzing whether DHS lost Claimant's first hearing request, it is worth noting that DHS mails clients a Notice of Case Action informing clients of all benefit decisions. Each Notice of Case Action includes a Request for Hearing form specifically tied to the case action taken by DHS. The hearing request DHS forwarded in the present case was completed by Claimant on a generic Request for Hearing form. Claimant's use of the generic hearing request form is consistent with DHS misplacing Claimant's initial hearing request, presuming that Claimant's first hearing request was made on the form mailed with the Notice of Case Action.

Overall, Claimant's testimony was credible, detailed and consistent. The testimony was also circumstantially verified to some extent. However, the most verifiable and persuasive fact was that Claimant did not sign the drop box log. Despite Claimant's seemingly credible testimony, it is more compelling that Claimant failed to verify his alleged submission with a signature. Based on the presented evidence, it is found that Claimant failed to timely submit required documents to DHS. Accordingly, the DHS termination of Claimant's FAP benefit eligibility is found to be proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefit eligibility effective 7/2012 due to a failure by Claimant to submit verification of stopped employment. The actions taken by DHS are AFFIRMED.



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

Date Signed: September 19, 2012

Date Mailed: September 19, 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:

