

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201321935
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 8, 2013
County: Wayne DHS (76)

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 April 8, 2013, 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 eligibility for Food Assistance Program (FAP) benefits due to an alleged 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. On an unspecified date, Claimant reported to DHS that she lost her job and that her employment income would stop.
3. On 12/12/12, DHS mailed Claimant a Verification Checklist (VCL) requesting proof of Claimant's stopped employment income.
4. The VCL gave Claimant until 12/26/12 to verify the employment stoppage.
5. Claimant made reasonable efforts to verify her stopped employment, but to no avail.

6. On 12/26/12, Claimant informed DHS of her difficulties in verifying her stopped employment.
7. On 1/3/13, DHS terminated Claimant's FAP benefit eligibility, effective 2/2013, due to Claimant's failure to verify stopped employment income.
8. On 1/7/13, 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).

The present case concerned a FAP benefit termination. The basis for termination was an alleged failure by Claimant to verify stopped employment income.

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.)

It was not disputed that DHS mailed Claimant a VCL requesting proof of stopped employment income and that Claimant failed to return requested verification by the 12/26/12 due date. Claimant testified that she went to her former employer shortly after receiving the VCL to drop-off a Verification of Employment, a form DHS uses to verify stopped employment. Claimant testified that she returned to her former employer a few days later and was told that the employer was too busy to complete the form. Claimant testified that she submitted another Verification of Employment to her former employer which highlighted that the employer could be subpoenaed if they were uncooperative in completing the form. Claimant also testified that she left a message for her DHS specialist explaining that she was unable to obtain the verification of stopped income. Claimant's testimony was unrebutted, detailed and very credible. It is found that Claimant made reasonable efforts in trying to comply with the verification request.

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.*

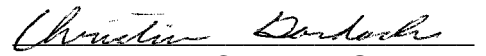
Claimant did as much as anybody could to obtain verification of her stopped income. Through no fault of Claimant's, she was still not able to obtain the verification. DHS conceded they were equally unsuccessful in obtaining the verification from Claimant's former employer. Based on the presented evidence, it is found that Claimant could not obtain verification of her stopped employment despite reasonable efforts and that DHS should have used the best available information and/or best judgment. Accordingly, the FAP benefit termination was 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 FAP benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FAP benefit eligibility, effective 2/2013, subject to the finding that Claimant used reasonable efforts in obtaining verification of stopped employment; and
- (2) supplement Claimant for any FAP benefits not issued because of the improper benefit termination.

The actions taken by DHS are REVERSED.


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

Date Signed: 4/12/2013

Date Mailed: 4/12/2013

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:

