

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201347674
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 13, 2013
County: Oakland DHS (03)

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 June 13, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefit eligibility due to a failure to verify stopped employment income.

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 4/3/13, Claimant reported to DHS that she quit her employment on 3/15/13.
3. On 4/3/13, DHS mailed Claimant a Verification Checklist (VCL) requesting proof of stopped employment.
4. The VCL due date was 4/15/13.
5. On 4/15/13, Claimant returned to DHS a resignation letter and a check stub which Claimant noted to be her last pay stub.

6. On 4/16/13, DHS initiated termination of Claimant's FAP benefit eligibility, effective 5/2013, due to Claimant's alleged failure to verify a stoppage of employment income.
7. On 4/29/13, 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).

Claimant requested a hearing to dispute a FAP benefit termination. It was not disputed that the termination was based on an alleged failure by Claimant to adequately verify a stoppage in employment income. In response to the verification request, Claimant returned a copy of a resignation letter and a check stub, which Claimant noted to represent her last payment from the stopped employment. Claimant's testimony implied that she sufficiently complied with the request for stopped employment.

DHS policy does not have a known policy listing what is an acceptable verification of stopped employment. A common sense approach can be adopted.

Claimant's response to the DHS request for stopped employment income was less than ideal. A letter of resignation, by itself, is not a particularly persuasive verification of stopped employment. Any person could draft a letter stating that their employment stopped; the existence of such a letter does not make it any more or less likely that employment ceased. A resignation letter is a written client statement, not a verification.

Claimant also submitted a "last" pay stub as proof of her stopped employment. It was not disputed that there was no distinguishable information on the pay stub to verify that it was Claimant's last with that particular employer. Claimant noted that the amount of income on the "last" pay stub was significantly less than her usual earnings which is supportive of accepting the stub as verification of stopped employment. Though a pay check verifying reduced hours may be consistent with stopped employment, it is hardly definitive proof. It is equally likely that the reduction in hours was a standard fluctuation or was a temporary stoppage in work hours. It is not found that Claimant's submission verified a stoppage in Claimant's employment.

Claimant also alleged that she submitted the only verifications that she could, and that she informed her specialist that she could not obtain any statement from her employer. DHS policy is supportive in excusing a client from having to return difficult to obtain verifications.

If neither the client nor DHS can obtain verification despite a reasonable effort, DHS is to use the best available information. BAM 130 (5/2012), p. 3. 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.

Thus, if a client makes reasonable efforts in obtaining verification, DHS should use the best available information rather than terminate benefit eligibility. It must be determined whether Claimant used reasonable efforts.


Claimant testified that she verbally informed her specialist of her difficulties in obtaining verification of stopped employment. Claimant testified concerning some of the difficulties she encountered in obtaining a stopped employment. Claimant's testimony was met with some skepticism because Claimant added the testimony later in the hearing, and only after Claimant was advised that such an argument would be appropriate. Further, Claimant wrote a lengthy statement on her hearing request making multiple unflattering accusations against her specialist; the accusations did not allege that Claimant requested assistance in obtaining verification of stopped employment. Though Claimant's testimony was imperfect, it was unrebutted. Based on the presented evidence, it is found that Claimant made reasonable efforts in verifying her stopped employment and that DHS should have used the best available information in determining Claimant's FAP eligibility; the best available information (the "last" pay stub and resignation letter) indicated that Claimant's employment income stopped. Accordingly, the DHS termination of FAP benefits is deemed 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 denied Claimant's FAP benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FAP benefit eligibility, effective 5/2013, subject to the finding that Claimant's used best efforts in verifying a stoppage in employment income and that based on the best available information, the income stopped; and
- (2) initiate a supplement of benefits, if any, not issued as a result 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: 6/21/2013

Date Mailed: 6/21/2013

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:

