

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53978
Issue No.: 3008 3029
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: Wayne DHS (43)

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 July 18, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager.

ISSUES

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

The second issue is whether DHS properly sanctioned Claimant for an employment-related disqualification concerning FAP eligibility.

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. Claimant was self-employed as a hairdresser making \$187/month.
3. On an unspecified date, Claimant's self-employment stopped.
4. On 4/26/13, DHS mailed Claimant a Verification Checklist (VCL) requesting proof of Claimant's self-employment income.

5. The VCL due date was 5/3/13.
6. Claimant did not respond to the VCL, either verbally or by returning verifications.
7. On 5/6/13, DHS mailed Claimant a Notice of Case Action terminating Claimant's FAP benefit eligibility, effective 6/2013, due to a failure to verify self-employment income.
8. On 5/6/13, DHS mailed Claimant a Notice of Case Action notifying Claimant of a continued FAP benefit sanction.
9. On 6/14/13, Claimant requested a hearing to dispute the FAP termination.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. 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 due to Claimant's failure to verify self-employment income.

It was not disputed that DHS mailed Claimant a VCL on 4/26/13, giving Claimant until 5/3/13 to submit proof of self-employment income. It was not disputed that Claimant failed to return proof of self-employment income. Claimant testified that she did not return proof of self-employment income because the income stopped; Claimant also conceded that she did not report an income stoppage to DHS until 6/2013, after the benefits ceased. Claimant also testified that she did not believe that she had to report the income stoppage to DHS because she was a "simplified reporter".

Claimant's testimony was not self-flattering. Claimant essentially ignored the DHS request for income. Despite Claimant's failure to comply with the VCL, DHS must first establish a legitimate reason for requesting verifications before an adverse action may be taken.

DHS is to verify countable income at all of the following:

- Application, including a program add, prior to authorizing benefits.
- At member add, only the income of the member being added.
- Redetermination.
- When program policy requires a change be budgeted.

BEM 502 (10/2012), p. 5.

DHS presented testimony that proof of Claimant's income was requested because DHS was budgeting income for Claimant, but there was no documentation to substantiate the budgeting of income. The presented reason for requesting verification of income is technically not supported by DHS policy. There are times when DHS does not need to verify income (e.g. income increases). It is found that DHS did not justify a basis for requesting income. Accordingly, it is found that DHS improperly terminated Claimant's FAP benefit eligibility.

DHS also testified that a FAP benefit sanction was imposed because Claimant quit self-employment. Non-deferred adults who are already working may not do any of the following:

- Voluntarily quit a job of 30 hours or more per week without good cause.
- Voluntarily reduce hours of employment below 30 hours per week without good cause.

BEM 230B (1/2013), p. 2.

It is plausible that Claimant could be sanctioned for quitting employment. Based on the present case's circumstances, the DHS testimony for the sanction was highly befuddling.

DHS closed Claimant's FAP eligibility due to a failure to verify ongoing self-employment income. Claimant testified that she did not report the income stoppage to DHS. It is contradictory that DHS would attempt to verify ongoing self-employment income if DHS thought that Claimant quit the employment.

Also confusing was that the Hearing Summary prepared by DHS noted that the employment sanction began in 9/8/12. Submitted documents indicated that DHS continued to budget \$187/month in income in Claimant's FAP benefit determination. It is contradictory that DHS would simultaneously believe that Claimant quit performing self-employment and continue to budget self-employment income.

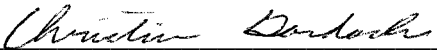
Also, DHS presented testimony that Claimant worked as a hairdresser making \$187/month and that Claimant quit this job. Even disregarding Claimant's reasonable claim that the self-employment stopped because her clients moved (as opposed to Claimant quitting), it is implausible that \$187/month in income is the result of 30 hours per week of employment. Based on the presented evidence, DHS failed to establish a basis for an employment related sanction on claimant's FAP benefit eligibility.

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 eligibility. It is ordered that DHS:

- (1) redetermine Claimant's FAP eligibility, effective 6/2013, subject to the finding that Claimant did not fail to verify income because DHS did not have a basis to request income from Claimant;
- (2) redetermine Claimant's FAP eligibility, effective 6/2013, subject to the finding that DHS had no basis for a FAP-related sanction due to Claimant quitting self-employment as a hairdresser; and
- (3) initiate supplement of any FAP benefits improperly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: 7/26/2013

Date Mailed: 7/26/2013

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 affect the substantial rights of the claimant,
 - 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:

