

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201312190
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 3, 2013
County: Oakland DHS (04)

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 January 3, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's Food Assistance Program (FAP) benefit due to an alleged failure by Claimant to verify vehicle ownership.

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 8/3/12, Claimant applied for FAP benefits.
2. DHS issued expedited FAP benefits to Claimant for the period of 8/3/12-9/30/12.
3. On 8/10/12, DHS mailed Claimant a Verification Checklist (VCL) requesting proof of Claimant's rent, vehicle ownership and vehicle value.
4. The VCL due date was 8/20/12.
5. Claimant failed to submit the requested verifications to DHS.
6. On 8/24/12, DHS denied Claimant's ongoing FAP benefit eligibility effective 10/2012.

7. Prior to the negative action effective date, Claimant informed DHS of needing assistance in verifying vehicle ownership.
8. On 11/19/12, Claimant requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

FAP (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 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 denial for ongoing FAP benefit eligibility following an issuance of expedited FAP benefits. DHS contended that Claimant failed to verify rent, vehicle ownership and vehicle value which resulted in a termination of FAP benefits effective 10/2012.

A failure to verify rent is not a basis to terminate FAP benefit eligibility. Thus, DHS may not rely on Claimant's alleged failure to verify rent as a basis for terminating FAP benefits.

For FAP benefits, there is a \$15,000 limit on countable vehicles owned by the FAP group. BEM 400 (7/2012), p. 28. DHS is to enter the fair market value of all licensed and unlicensed vehicles and the mileage. *Id.* Acceptable vehicle verifications include: title, registration or proof of insurance, loan statement or payment book, or a Secretary of State (SOS) inquiry. *Id.* p. 46.

DHS contended that Claimant's failure to verify vehicle value was a basis for termination. DHS policy states that to determine vehicle value, DHS is to rely on Kelley Blue Book at (www.kbb.com) or NADA Book at (www.nadaguides.com) wholesale (trade-in) value. It is presumed that the above policy is directed at specialists who have easy access to policy, not clients. Thus, DHS specialists have the responsibility of determining vehicle value, not clients. Accordingly, benefit eligibility may not be terminated based on a client failure to verify vehicle value.

The alleged failure to verify vehicle ownership was also noted by DHS as a basis for benefit termination. DHS is authorized to request verification of vehicle ownership from clients. Claimant contended that he provided DHS with proof of vehicle ownership. Claimant could not specify on what date that the proof was given to DHS. It was established that Claimant submitted a rent receipt (it did not meet the policy requirements to verify rent) to DHS on 9/6/12. It could be reasonably assumed that Claimant would have submitted proof of vehicle ownership on that date. That date may

or may not have been timely based on a pending negative action hat DHS took on 8/24/12. However, the case may be decided on a different basis.

DHS regulations note that a Secretary of State inquiry needs to be done (by DHS) if no other verification source is available, or if the client requests assistance. *Id.* Claimant testified that he contacted his specialist expressing concern about submitting verification of vehicle ownership. Claimant's request for help was not crystal clear, but it was enough for DHS to know that Claimant required assistance in obtaining vehicle ownership verifications. DHS could have easily offered to check their Secretary of State database; no such offer was made. It is found that the benefit termination was improper because DHS did not attempt to verify Claimant's vehicle ownership through the Secretary of State database after Claimant informed DHS of having difficulty in obtaining the verification.

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 application for FAP benefits. It is ordered that DHS:

1. reinstate Claimant's FAP benefit eligibility effective 10/2012;
2. process Claimant's ongoing eligibility subject to the finding that DHS had the burden of verifying Claimant's vehicle ownership and vehicle value; and
3. supplement Claimant for any FAP benefits 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: January 11, 2013

Date Mailed: January 11, 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:

