

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-17384
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 13, 2014
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 13, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) eligibility due to Claimant's failure to verify 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 and her spouse were ongoing FAP benefit recipients.
2. Claimant's FAP benefit period was scheduled to expire at the end of 10/2013.
3. Claimant's spouse was self-employed as a consultant.
4. As part of a redetermination, Claimant presented a partially completed Verification of Employment (Exhibits 1-2) in an attempt to verify her spouse's income.
5. The Verification of Employment failed to clarify the amount and pay dates of Claimant's spouse's income.

6. On [REDACTED]/13, DHS mailed Claimant a Verification Checklist (Exhibits 3-4) requesting proof of Claimant's spouse's employment income.
7. The VCL due date was [REDACTED]/13.
8. Claimant failed to submit proof of her spouse's employment income by the VCL due date.
9. Claimant's FAP benefits expired at the end of 10/2013 due to Claimant's failure to verify her spouse's employment income.
10. On 1 [REDACTED]/13, Claimant requested a hearing to dispute the FAP benefit termination.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a termination of FAP benefits to be effective 11/2013. It was not disputed that Claimant's FAP eligibility ended because of an alleged failure by Claimant to verify her spouse's employment income.

DHS must periodically redetermine an individual's eligibility for active programs. BAM 210 (10/2013), p. 1. A complete redetermination is required at least every 12 months. *Id.* For all DHS programs, Bridges generates a redetermination packet to the client three days prior to the negative action cutoff date in the month before the redetermination is due. *Id.* DHS is to verify all non-excluded employment income at redetermination. BEM 501 (7/2013), p. 9. For employment income, examples of acceptable verifications include the following: check stubs, employment verification forms, employer signed statement, work schedules, The Work Number and/or employment service contractors. *Id.*, p. 10.

In an attempt to verify her spouse's income, Claimant's returned a Verification of Employment (Exhibits 1-2). The form was unsigned, completed by Claimant and failed to list any pay history. The form would be inadequate to verify employment income. It was not disputed that DHS followed-up by mailing a VCL requesting clarification of Claimant's spouse's income. It was not disputed that Claimant failed to return any further documentation.

The presented evidence was persuasive in finding that Claimant failed to adequately verify her spouse's employment. The finding is appropriate for a person who was employed, not self-employed.

Claimant's spouse was a human resource consultant. Claimant reported and testified that her spouse was in the middle of a 2-3 month project, which was expected to result in a payment to Claimant sometime in 12/2013. The evidence suggested that Claimant's spouse was self-employed.

Examples of self-employment income verification include the following: an income tax return, self-employment income statement with receipts and/or a self-employment statement without receipts. BEM 502 (7/2013), p. 7. DHS did not request any of the forms cited by DHS policy as acceptable verifications of self-employment. The VCL mailed to Claimant listed the following as acceptable types of verification: last 30 days of check stubs, employer statement and Verification of Employment. Each of these verification are listed in DHS regulations as examples for employee-employer relationships but not for self-employment. The DHS failure to recognize Claimant's spouse's income as self-employment was a significant factor in Claimant's failure to comply with verification request.


Based on the presented evidence, it is found that DHS failed to request proper self-employment income verification from Claimant. Accordingly, the FAP benefit termination is found 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 terminated Claimant's FAP benefits. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility effective 11/2013 subject to the finding that DHS failed to request proof of Claimant's spouse's self-employment income;
- (2) 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: 1/22/2014

Date Mailed: 1/22/2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

