

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-16972
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 9, 2014
County: Oakland (03)

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 9, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) eligibility due to a Claimant failure to verify employment income and/or a stoppage in 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. Claimant was employed for an employer (hereinafter "Employer 1") from 6/2013-7/2013 and then employed for a separate employer (hereinafter "Employer 2") from 8/2013-9/2013.
3. On [REDACTED]/13, DHS mailed Claimant a New Hire Client Notice (Exhibits 3-4) requesting Claimant's income information from Employer 1.

4. On an unspecified date, Claimant reported a loss of employment from Employer 1.
5. On [REDACTED] 4/13, DHS mailed Claimant a Verification Checklist requesting proof of Claimant's last 30 days of income and loss of employment from Employer 1.
6. The VCL due date was [REDACTED]/13.
7. Claimant failed to submit proof of her loss of employment with Employer 1.
8. On an unspecified date, Claimant requested help from DHS in requesting verification.
9. On [REDACTED]/13, DHS initiated termination of Claimant's FAP eligibility, effective 1/2014, due to Claimant's failure to verify employment income and or a loss of employment with Employer 1.
10. On [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 FAP benefit termination. It was not disputed that DHS terminated Claimant's eligibility due to a failure to verify employment information; it was less clear what information was not verified.

Claimant had three different jobs in the last half of 2013. DHS presented testimony that Claimant failed to verify employment income from Employer 1, employment that Claimant testified she held for 6/2013 and 7/2013.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2013), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2.

DHS established that a VCL (Exhibits 1-2) was mailed to Claimant on [REDACTED]/13 requesting proof of stopped employment. Some confusion was created because of Claimant's multiple employers and the DHS failure to note on the VCL from which employer verification was sought. Presented testimony tended to establish that

Claimant knew that the VCL meant to request proof of her stoppage in employment with Employer 1.

Claimant testified that she timely submitted a separation letter to DHS which verified that her employment with Employer 1 stopped. DHS responded that Claimant did not submit such a separation letter. Neither side presented compelling evidence to support the testimony.

Claimant could have brought a copy of the separation letter to the hearing. Generally, a client unable to present a document at an administrative hearing is less likely to have submitted the document to DHS prior to the hearing.

DHS failed to bring Claimant's case file to the hearing. The case file may have contained Claimant's allegedly submitted verification.

Claimant also alleged that she reported to her specialist that she was unable to obtain the needed documents from Employer 1. Claimant further alleged that her DHS specialist advised Claimant that DHS would accept the responsibility of obtaining needed income information. The client must obtain required verification, but DHS must assist if clients need and request help. BAM 130 (7/2013), p. 3.

Claimant's testimony is inconsistent with the actions of the specialist. It is unlikely that a specialist advised a client to relieve a client with document submission responsibility and then terminate the client's benefit eligibility for failing to submit a document. On the other hand, DHS could have presented the specialist's testimony to rebut Claimant's testimony; DHS did not present any testimony from Claimant's specialist.

Claimant's hearing request noted that she submitted a paystub and "previous employment info". It also noted that her specialist had difficulty contacting an employer; this statement suggests that Claimant genuinely expected DHS to assist her in the verification process. On the other hand, Claimant's hearing request identified a specific employer which was not clearly identified to be Employer 1 or Employer 2. Thus, consistency between Claimant's hearing request and testimony is not guaranteed.

Neither side presented persuasive evidence. The DHS position was slightly less persuasive than Claimant's. It is found that DHS failed to assist Claimant in obtaining verification. Accordingly, the termination of Claimant's FAP eligibility was improper.

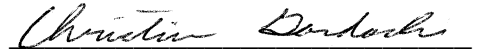
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP eligibility. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's FAP eligibility, effective 1/2014, subject to the finding that DHS is to assist Claimant with needed verifications; and

(2) initiate a supplement of any 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: 1/17/2014

Date Mailed: 1/17/2014

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:

