

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008509
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: June 29, 2015
County: Macomb (36)

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 June 29, 2015, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] Claimant's spouse, testified on behalf of Claimant. [REDACTED], Claimant's niece, testified and appeared as Claimant's authorized hearing representative (AHR) and interpreter. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Claimant's Food Assistance Program (FAP) eligibility based on a Claimant failure to verify income information.

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's spouse was an employed individual.
3. On an unspecified date, MDHHS received a Change Report from Claimant which reported that Claimant's spouse's employment stopped as of [REDACTED]
[REDACTED]

4. On [REDACTED], MDHHS received a Verification of Employment which stated that Claimant's spouse was laid-off as of [REDACTED], and that her last pay date was [REDACTED].
5. On [REDACTED], MDHHS terminated Claimant's FAP eligibility, effective May 2015, due to Claimant's alleged failure to verify earned income payment.
6. On [REDACTED], Claimant requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that the request noted that Claimant required special arrangements to participate in the administrative hearing. Specifically, Claimant stated that he spoke Albanian. Claimant brought his niece to the hearing so that she could interpret for himself and his spouse. The hearing was conducted with Claimant's niece as an interpreter with no objections or need for other arrangements.

Claimant requested a hearing to dispute a termination of FAP benefits, effective May 2015. MDHHS presented a Notice of Case Action (Exhibits 1-2) stating that "Verification of Earned Income Payment (BEM 501) was not returned for [REDACTED]." MDHHS testified that Claimant failed to verify his spouse's last 30 days of income from a job that reportedly stopped in December 2014.

For FAP benefits, (MDDHS is to) verify income that decreases or stops. BEM 500 (April 2015), p. 12. For stopping income, (MDDHS is to) budget the final income expected to be received in the benefit month. BEM 505 (July 2014), p. 7. (MDHHS is to) use the best available information to determine the amount of the last check expected. *Id.* (MDDHS is to) use information from the source and from the client. *Id.* (MDDHS is to) remove stopped income from the budget for future months. *Id.*

MDHHS presented a Verification of Employment (Exhibits 3-4) received by MDHHS on [REDACTED]. The document stated that Claimant's spouse was laid-off as of [REDACTED] and that her last paycheck was [REDACTED]. A second

Verification of Employment (Exhibits 5-6) restated that Claimant's last day of work was [REDACTED].

Both submitted Verification of Employment forms failed to state the last 30 days of pay Claimant's spouse received from her job. MDHHS contended that Claimant's employer should have been provided in Section 3 of the form. Section 3 of the Verification of Employment asks employers to provide pay dates and amounts for a period that MDHHS is to specify. MDHHS did not specify the time period for which income information was needed. Thus, it could be concluded that MDHHS improperly terminates Claimant's FAP eligibility because MDHHS never requested 30 days of Claimant's information, at least MDHHS did not request the information on the Verifications of Employment.

As it happened, a superior reason exists for reversing the closure of Claimant's FAP eligibility. MDHHS failed to establish why such income information was necessary.

Claimant's spouse sufficiently verified that her job ended and the date of her last pay. MDHHS policy may require budgeting the "final income expected to be received in the benefit month" but this is not information that has to be verified after the benefit month. If Claimant's FAP eligibility for January 2015 (the month of Claimant's spouse's last pay from her job) was in dispute, MDHHS would have reason to verify the amount of Claimant's spouse's income for January 2015. The present case is concerned with Claimant's FAP eligibility for May 2015. There is no known reason that MDHHS would need to verify Claimant's income from January 2015 for purposes of Claimant's May 2015 eligibility. Based on the presented evidence, it is found that MDHHS improperly required Claimant to verify his spouse's last 30 days of employment income to determine ongoing FAP eligibility.

DECISION AND ORDER

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

- (1) redetermine Claimant's FAP eligibility, effective May 2015, subject to the finding that the amount of Claimant's last pay from [REDACTED] is not required information; and
- (2) initiate a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/2/2015**

Date Mailed: **7/2/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

