

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-32326  
Issue No: 2006; 3008  
[REDACTED] 1  
Hearing Date: June 28, 2011  
Ingham County DHS

**Administrative Law Judge:** Mark A. Meyer

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1979 AC, R 400.903. Claimant requested a hearing on April 28, 2011, and, after due notice, one was held on June 28, 2011. Claimant and her father appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

**ISSUE**

In dispute was whether the Department properly terminated Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits for failure to provide requested verification of self-employment income.

**FINDINGS OF FACT**

Based on the competent, material, and substantial evidence on the whole record, the Administrative Law Judge finds as relevant fact:

1. On April 15, 2011, Claimant submitted a semi-annual contact report (DHS-1046). This form, pertaining to Claimant's FAP benefits, instructed her to note any changes in her housing, income, or expenses. (Department's Exhibit D-6.)
2. On page 2 of the DHS-1046, Claimant was asked the following question: "If anyone in your household is self-employed, complete the information below." Claimant noted that she was engaged in "Beauty/Cosmetics" with an average monthly income of "[REDACTED]" (Department's Exhibit D-6.)
3. Claimant signed the DHS-1046 on April 15, 2011. (Department's Exhibit D-6, p. 2.)

4. On April 18, 2011, Claimant submitted a redetermination form (DHS-1010) to the Department. This form indicated that a review of her eligibility for MA was due. (Department's Exhibit D-1, p. 1.)
5. The DHS-1010 form asked Claimant the following question: "Does anyone in your household have income?" Claimant marked "Yes." She entered on the form that she was receiving "[between] ██████/mo" for an "unknown" number of hours per work per pay period. Claimant listed her source of income as "cosmetics/beauty." (Department's Exhibit D-1, p. 2.)
6. On the DHS-1010, Claimant noted that she incurred a "hair care products" expense of "█████/depends." (Department's Exhibit, p. 3.)
7. Claimant signed the DHS-1010 on April 18, 2011. (Department's Exhibit, p. 4.)
8. On April 18, 2011, Claimant informed her caseworker that she "has been doing hair since [November 28, 2011]." (Department's Exhibit D-2.)
9. On April 20, 2011, Claimant instructed the Department to close her MA and FAP benefits case because she could not provide the self-employment income verification requested by the Department during the redetermination process. (Department's Exhibit D-3.)
10. On April 18, 2011, the Department issued a notice of case action to Claimant informing her that her MA benefits case was closed, effective May 1, 2011. The agency listed the basis for closure as Claimant's failure to provide adequate verification as requested. (Department's Exhibit D-7, pp 1, 2.)
11. On May 19, 2011, the Department issued a notice of case action to Claimant informing her that her FAP benefits case was closed, effective June 1, 2011. The agency listed the reasons for case closure as: (1) Claimant requested that her case be closed; and (2) she failed to provide the Department with requested verification. (Department's Exhibit D-8, pp 1, 2.)
12. Claimant subsequently requested a hearing to contest the agency's action. (Claimant's hearing request, received April 28, 2011.)

### **CONCLUSIONS OF LAW**

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1979 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable

promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1).

An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p 1.<sup>1</sup>

Here, the Department terminated Claimant's MA and FAP benefits. From these determinations, she filed a request for hearing.

The MA program was established by Title XIX of the Social Security Act, 42 USC 1396, *et seq.*, and is implemented through federal regulations found in the Code of Federal Regulations, 42 CFR 430, *et seq.* The Department administers the MA program under MCL 400.10, *et seq.*, and MCL 400.105. Department policies developed from this authority are found in the BAM, the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, and is implemented through federal regulations found in 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. Agency policies pertaining to the FAP are found in the BAM, BEM, and RFT. The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230A.

A client must cooperate with the Department in determining initial and ongoing eligibility for assistance benefits. BAM 105, p 5. The disputed issue here involved the matter of requested verification regarding Claimant's averred self-employment income, or lack thereof.

Verification is defined as "documents or other evidence to establish the accuracy of the client's verbal or written statements." BAM 130, p 1. Verification is usually required at application, redetermination, or for a reported change affecting eligibility or level of benefit. BAM 130, p 1. The Department will instruct a client: (1) what verification is required; (2) how to obtain it, and (3) the due date for submission. BAM 130, p 2. For verification purposes, the agency primarily uses the VCL, Form DHS-3503. BAM 130, p 2-3. Redetermination forms (e.g., DHS-1010) are used to redetermine a client's continued benefit eligibility. BAM 210, pp 1, 5.

Verification requested by the Department must be obtained by the client, although assistance may be requested from the agency if needed. BAM 130, p 3; see also BAM 105, p 9. The client must take action within his or her ability to obtain verifications. BAM 105, p 8.

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<sup>1</sup> All policy citations are to Department of Human Services' policy in effect at the time of the agency action in dispute.

For MA, a client is provided ten calendar days in which to provide requested redetermination verification. BAM 210, p 10. For FAP, redetermination verifications must be provided by the end of the current benefit period or within ten days after they are requested, whichever allows more time. BAM 210, p 11.

A client who is able, but demonstrates a refusal to provide requested verifications or take a required action, is subject to penalties. BAM 105, p 5. For example, a negative action notice is issued against the client when he or she:

- indicates a refusal to provide a verification, or
- the time period given for providing the requested verification elapses.  
(BAM 130, p 6.)

In the present matter, the Department requested verification regarding Claimant's self-employment income. On April 15, 2011, Claimant submitted a signed semi-annual contact report regarding her FAP benefits; this document asked: "If anyone in your household is self-employed, complete the information below." (Department's Exhibit D-6, p 2.) (Emphasis added.) Claimant listed on the document that she was receiving ██████ per month while engaging in the business of "beauty/cosmetics." (Department's Exhibit D-6, p 2.) On April 18, 2011, Claimant submitted a signed redetermination form relating to her MA benefits. This form made the following inquiry of Claimant: "Does anyone in your household *have* income?" (Department's Exhibit D-1, p 2.) (Emphasis added.) On this form, turned in three days after the semi-annual contact report, Claimant noted that she was receiving "[between] ██████/[month]" for "cosmetics/beauty" work activity. (Department's Exhibit D-1, p 2.) Claimant was, however, unable to provide any documentation or other credible evidence regarding this income or the period in which it was earned.

Claimant contended that the income listed on both of the above forms, irrespective of the differing dollar amounts, was earned by her during the period November 2010 through December 2010. Claimant testified that after December 2010, she no longer received any income, and therefore could not provide the Department with any verification of income for the period January 2011 through April 2011. This testimony is unpersuasive.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Furthermore, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

Here, Claimant completed and signed two separate documents three days apart in April 2011. Each of these documents specifically inquired whether she was receiving income *at that time*. On both forms, although each indicated a different monthly amount, Claimant stated that she was receiving income at the time the forms were signed and submitted to the Department (i.e., April 2011).

Michigan law presumes that one who signs a written document is aware of the nature of the document and understands its contents. See, e.g., *McKinstry v Valley OB-Gyn Clinic, PC*, 428 Mich 167, 184; 405 NW2d 88 (1987).

According to Claimant, she thought the forms she signed and provided to the Department were asking for self-employment income for the time period November through December 2010 (the period she claimed to have been engaged in "cosmetics/beauty"). This contention is without sufficient basis. Here, Claimant knew or reasonably should have known that the forms she completed and signed on April 15, 2011, and April 18, 2011, respectively, were asking for her current income, not that for a prior time period. Claimant twice indicated that she was then receiving income, and was thus required to provide adequate verification of that income.

Furthermore, Claimant provided no testimony or other evidence indicating how she was able to provide for her daily needs (e.g., shelter expense, etc.) if, in fact, she no longer had any income after December 2010, as contended. The lack of such testimony or evidence negatively impacts her credibility in this matter.

Finally, there is the issue of Claimant's request on April 20, 2011, that her MA and FAP benefits cases be closed. (See Department's Exhibit D-3.) Even in the absence of the above discussion, this is an arguably permissive and sufficient basis for upholding the agency's actions in this matter.

### **DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, the Administrative Law Judge determines that the Department properly terminated Claimant's MA and FAP benefits based on her request that her case be closed. Furthermore, even in the absence of such request, it is determined that the Department properly terminated Claimant's MA and FAP benefits cases based on her failure to adequately comply with the agency's request for verification.

The Department's action in this matter is UPHELD.

It is SO ORDERED.

/s/ \_\_\_\_\_  
Mark A. Meyer  
Administrative Law Judge

for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 7/19/11

Date Mailed: 7/19/11

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

Claimant may appeal this Decision and Order to the Circuit Court for the county in which he/she resides within 30 days of the receipt of this Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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