

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-15072
Issue No: 3008
Case No: [REDACTED]
Hearing Date: January 15, 2013
Wayne-19 County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 15, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant was receiving FAP benefits.
2. Prior to October 8, 2012, the Department requested the Claimant submit verifications regarding a trust agreement.
3. On October 8, 2012, the Claimant submitted the requested information regarding the trust agreement.

4. On approximately October 25, 2012, the Department's Trust unit asked the Department to acquire additional information from the Claimant regarding the Claimant's trust agreement.
5. On October 26, 2012, the Department sent the Claimant a second verification checklist regarding the Claimant's trust agreement.
6. On November 1, 2012, the Claimant turned in copies of documents pertaining to one of the requested proofs the Department listed on the October 26, 2012 verification checklist.
7. On November 14, 2012, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's FAP benefits were being closed effective December 1, 2012 for failing to allow the Department to verify necessary information.
8. On November 30, 2012, the Claimant requested a hearing in protest of the FAP closure.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The FAP [formerly known as the Food Stamp (F S) 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). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the

¹ *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).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

reasonableness of the witness 's testimony, and the interest, if any, the witness may have in the outcome of the matter.³

I have carefully considered and weighed the testimony and other evidence in the record and find the Department's October 26, 2012, verification checklist was not very clear and therefore find the Claimant was cooperative at all times regarding the submission of trust agreement documentation.

A small one sentence line on the verification checklist asks the Claimant to submit a signed copy of the trust agreement. But later in the documentation under the verification requested and the types of proof (both in bold) it fails to mention anything about a signed trust agreement and goes on to ask for additional forms of qualifying documents of which the Claimant could submit. The Claimant having submitted one of those other qualifying documents more than meets what I would consider the expectations of the verification checklist.

Accordingly, I **REVERSE** the Department's actions in this matter.

DECISION AND ORDER

I find based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did not act properly.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination of the Claimant's eligibility for FAP benefits beginning December 1, 2012 and issue any retroactive benefits if other wise eligible and qualified.

/s/ _____
Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: January 16, 2013

Date Mailed: January 16, 2013

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

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 receipt 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

CAA/las

cc:

