

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

IN THE MATTER OF:



Reg. No.: 201326853
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 30, 2013
County: Ottawa

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on March 20, 2013. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) on February 1, 2013?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits. Based on Claimant's application, she had a FAP benefit group of one.
- (2) On January 4, 2013, Claimant's case was referred to the Office of Inspector General for a [REDACTED] regarding group composition, income and assets.
- (3) On January 10, 2013, Regulation Agent (RA) Thiel made a home call to Claimant's address of record. RA [REDACTED] completed his investigation the same day and reported that: the Department had received an anonymous report that Claimant and her [REDACTED] [REDACTED] together; he was at Claimant's residence for 5-10 minutes but did not make contact with Claimant or anyone inside the residence; Claimant's [REDACTED] owns Claimant's residence; the [REDACTED] outside Claimant's residence are all owned by Claimant's [REDACTED] and a confidential source believes Claimant an other residents of the home were present when he was at the residence.

- (4) On January 14, 2013, Claimant's case worker pended Claimant's Food Assistance Program (FAP) to close as directed by RA Thiel. Claimant was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program (FAP) would close on February 1, 2013 because she had failed to verify necessary information to determine her eligibility.
- (5) On January 28, 2013, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case the Department suspects Claimant of committing welfare fraud. RA [REDACTED] investigation raises questions about the accuracy of the information Claimant has given the Department in her applications for assistance. In accordance with Department of Human Services Bridges Administration Manual (BAM) 130 Verification and Collateral Contact (2012) the Department should obtain verification regarding Claimant's group composition because Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory.

However, the Department did not send Claimant a Verification Checklist (DHS Form 3503) requiring she verify that her [REDACTED] DOES NOT live with her. Instead the Department closed Claimant's Food Assistance Program (FAP) for failure to provide required verification. Claimant could not fail to provide verifications she was never asked for.

It is understandable that RA [REDACTED] believes Claimant is committing welfare fraud. His report contains circumstantial evidence to support his belief and to serve as a basis for the Department's action. However, the evidentiary requirements in this hearing are set by the Michigan Administrative Procedures Act which requires that an Administrative Law Judge's final decision and order must be supported by, and in accordance with, competent, material, and substantial evidence. Hearsay statements from unidentified confidential sources, do not meet the definition of competent evidence.

Because of the Michigan Administrative Procedures Act's evidentiary requirements, this action cannot be upheld. During this hearing it was explained to Claimant that the result of this hearing does not preclude any future action by the Department regarding their concern about her eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly close Claimant's Food Assistance Program (FAP) on February 1, 2013.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that Claimant's Food Assistance Program (FAP) be reinstated and continue to be processed in accordance with Department policy.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 3/27/13

Date Mailed: 3/27/13

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 60 days of the filing of the original request.

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

201326853/GFH

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

GFH/tb

cc:

