

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201326881
Issue No: 3008
Case No: [REDACTED]
Hearing Date: February 27, 2013
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 received by the Department of Human Services (department) on January 28, 2013. After due notice, hearing was held on February 27, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Calhoun County office.

ISSUE

Whether the department properly closed Claimant's Food Assistance Program (FAP) benefits case for failure to return the required verification?

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 a recipient of FAP benefits at all times relevant to this hearing.
2. In October 2012, the department completed a redetermination review of Claimant's FAP benefits and included Claimant's reported new employment in Claimant's FAP budget. (Department Hearing Summary)
3. On October 26, 2012, Claimant reported to the department that he had been laid off from his employment with [REDACTED] [REDACTED] [REDACTED]. (Department Hearing Summary)
4. On October 26, 2012, the department issued Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide verification of his loss of employment. The department advised Claimant that his failure to

provide the requested information or call his specialist by November 5, 2013 may result in the denial, decrease, or cancellation of his benefits. (Department Exhibit A)

5. On October 29, 2012, the department also faxed a Verification of Employment (DHS-38) to Claimant's former employer, [REDACTED] requesting that the employer provide verification of Claimant's employment status to the department by November 8, 2012. (Department Exhibit B)
6. Neither Claimant nor Claimant's former employer provided the department with the requested verifications. (Department Exhibit C)
7. In early November 2012, Claimant reported to his caseworker that he had returned to his employment with [REDACTED] (Claimant's February 27, 2013 Hearing Testimony; [REDACTED] February 27, 2013 Hearing Testimony)
8. On January 18, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing him that, effective February 1, 2013, his FAP benefits were being closed due to his failure to provide the required verifications. (Department Exhibit D)
9. On January 28, 2013, Claimant requested a hearing contesting the department's closure of his FAP benefit case.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. BAM 130. . For MA, if the client cannot provide the verification despite a reasonable effort, the time limit is extended up to three times. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

The Client is allowed 10 calendar days to provide the verifications requested by the department. If the Client cannot provide the verification despite a reasonable effort, the department may extend the time limit at least once. The department sends a negative action notice to the Client when the Client indicates refusal to provide a verification, or the time period given has elapsed and the Client has not made a reasonable effort to provide it. BAM 130.

In the instant case, Claimant is disputing the department's termination of his FAP benefits for failure to provide the requested verification of his loss of employment.

At the February 27, 2013 hearing, Hal Means, the department's representative and Claimant's case specialist, testified that after he mailed Claimant the Verification Checklist on October 26, 2012, requesting verification of Claimant's loss of employment by November 5, 2012, [REDACTED] received a voicemail from Claimant in early November 2012 advising him that Claimant had returned from layoff status to his employment with [REDACTED]. [REDACTED] further testified that, following his receipt of Claimant's voicemail message, [REDACTED] did not call Claimant back and advise him that he must still complete the pending verification of his loss of employment by the November 5, 2012 deadline.

Claimant testified at the hearing that he believed he had done all that was required of him after he reported to his case specialist that he had returned to employment and after his case specialist failed to call him back and advise him differently.

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). Moreover,

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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the hearing, the department improperly closed Claimant's FAP benefits effective February 1, 2013 for failure to provide the requested verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed Claimant's FAP benefits effective February 1, 2013 for failure to provide the requested verifications. Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate Claimant's FAP benefits for the benefit period effective February 1, 2013 and issue supplement checks for any months he did not receive the correct amount of benefits if he was otherwise entitled to them.

It is **SO ORDERED**.

/s/_____

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 1, 2013

Date Mailed: March 4, 2013

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 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 60 days of the filing of the original request.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

