

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201330923  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: March 21, 2013  
County: SSPC-West

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**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 March 21, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Worker).

**ISSUE**

Did the Department properly deny Claimant's application Food Assistance Program (FAP) due to a failure to comply with the verification requirements?

**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 applied for FAP on December 11, 2012.
2. On January 4, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503).
3. Claimant was required to submit requested verification by January 14, 2013.
4. On February 9, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's application for failure to submit verification in a timely manner.
5. On February 15, 2013, Claimant filed a hearing request, protesting the denial.

## 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 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3001-3015

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For FAP, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. 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 department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130. **If the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the department must assist them with the verifications but not grant an extension. BAM 130.** The department worker **must** explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. BAM 130. Also, the department worker **shall** explain their eligibility will be determined based on their compliance date if they return required verifications. BAM 130. The department **must** re-register the application if the client complies within 60 days of the application date. See BAM 115 & BAM 130.

**Generally speaking, the client is obligated to obtain required verification, but the department worker must assist if the client needs and requests help. BAM 130.** If neither the client nor the department worker can obtain verification despite a reasonable effort, the department worker must use the best available information. BAM 130. If no evidence is available, the department worker should use his or her best judgment. BAM 130. Exception: Alien information, blindness, disability, incapacity, incapability to declare one's residence and, for FIP only, pregnancy must be verified. BAM 130.

For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130. Verifications that are submitted after the close of regular business hours through the drop box or by delivery

of a DHS representative are considered to be received the **next business day**. BAM 130.

For all programs, the department must, before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130.

Here, the Department contends that it mailed Claimant a verification request seeking the following information from Claimant's household: checking account, vehicle ownership, savings account, home rent, wages and home or building. According to the Department, the verifications were due on or before January 14, 2013. The Department argues that Claimant timely provided all requested verifications except wages from Claimant's spouse (Ayesha A. Abbas).

Claimant, on the other hand, contends that he faxed "everything" to the Department on January 11, 2013. Specifically, Claimant argues that included in these faxes were December, 2012 check stubs from his wife's employment at [REDACTED]. Then, Claimant adds, he called his Department caseworker on several occasions and left messages to confirm receipt and request assistance, both before and after the January 14, 2013, but the Department failed to return the messages. The Department representative who attended the hearing (who was the caseworker assigned to Claimant's application) did not recall specific details regarding the conversations with Claimant.

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). Moreover, 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).

Interestingly, the Department's hearing summary (and attached narrative) contains some discrepancies. First, the summary indicates that Claimant's application was denied because he failed to provide savings, checking, home building, home rent, vehicle ownership and wages information. When the hearing commenced, the Department caseworker corrected the summary to indicate that the only item Claimant failed to provide consisted of wages verifications. Claimant; however, provided copies of fax confirmations and telephone call logs which demonstrated that he faxed several documents to the Department prior to the due date and that he attempted to contact his caseworker on several occasions. Claimant also submitted evidence that he provided the Department with his spouse's wage information from [REDACTED] dated December, 2012.

This Administrative Law Judge finds that Claimant's version of events to be more credible. There is no evidence here that Claimant has failed to make a reasonable effort to provide all requested verification(s) within the required time period. Rather, it was the Department who has failed to properly assist Claimant with verifications as defined by BEM 130. Here, this Administrative Law Judge finds that Claimant either provided the wage information (at the same time he provided the savings, checking, home/building home rent, and vehicle ownership documentation) prior to the due date or timely and properly requested assistance with the verifications. Under either scenario, the Department has failed to give the client a reasonable opportunity to resolve discrepancies between his or her statements and information from another source before determining eligibility per BAM 130. The Department simply did not meet its burden of proof in this matter.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly denied Claimant's FAP application.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that 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:

- The Department shall re-register and reprocess Claimant's December 11, 2012 application.
- The Department shall provide Claimant with any supplemental and/or retroactive FAP benefits that he is entitled to receive according to applicable policy provisions.

IT IS SO ORDERED.

/s/ \_\_\_\_\_  
C. Adam Purnell  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: March 25, 2013

Date Mailed: March 26, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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