

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201333652
Issue No.: 3008,
Case No.: [REDACTED]
Hearing Date: April 9, 2013
County: St. Joseph County DHS

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 April 9, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor).

ISSUES

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's Food Assistance Program (FAP) case?

Did the Department properly close Claimant's FAP case due to failure to cooperate with child support 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 was receiving FAP.
2. On February 1, 2013, the Department received Claimant's Redetermination (DHS-1010) packet which indicated that Claimant had started new employment and had no longer received unearned income.
3. On February 14, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) which requested verification of wages, salaries, tips and commissions, etc., by February 25, 2013.

4. On February 27, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case effective March 1, 2013 for failure to submit verification in a timely manner. The DHS-1605 also indicated that Claimant's FAP was closed due to noncompliance with child support requirements.
5. On March 12, 2013, Claimant filed a hearing request, protesting 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 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. For FAP only, 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.

For FAP, benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. BAM 210. If the client does not complete the redetermination process, the Department will allow the benefit period to expire. BAM 210. The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, DHS-2063B, Food Assistance Benefits Redetermination Filing Record, or other redetermination document. BAM 210.

For FAP, an interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210. The Department worker is required to indicate on the individual interviewed/applicant-details screen in Bridges who was interviewed and how the interview was held, such as by telephone, in person etc. BAM 210.

If the redetermination packet is not logged in by the negative action cutoff date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. BAM 210.

For FIP, SDA and FAP, the Department worker shall: (1) obtain a complete redetermination/review packet from the client; (2) compare the redetermination/review document to the existing DHS-1171 or previous DHS-1010 and other case data and reconcile any discrepancies and ensure anything omitted is completed; (3) review the verifications and reconcile discrepancies; (4) refer the client to view online the following sections of the DHS-1010 information booklet: (i) Things You Must Do; (ii) Important Things To Know; (iii) Repay Agreements and (iv) Information About Your Household That Will Be Shared. BAM 210.

The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. BAM 210. If timely redetermination procedures are met but too late to meet the normal issuance date, issue benefits within five workdays. BAM 210. Bridges will issue a payment for lost benefits if the client is **not** at fault for delayed processing that prevented participation in the first month. BAM 210.

The group loses their right to uninterrupted FAP benefits if they fail to do any of the following: (1) file the FAP redetermination by the timely filing date; (2) participate in the scheduled interview; (3) submit verifications timely, provided the requested submittal date is **after** the timely filing date. BAM 210. Any of these reasons can cause a delay in processing the redetermination. When the group is at fault for the delay, the redetermination must be completed in 30 days. BAM 210.

Department policy indicates that clients can pursue any potential benefits for which they may be eligible. BEM 270. One of these benefits is child support. The department

takes the position that families are strengthened when children's needs are met. BEM 255. Departmental policy provides that parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255.

Department policy states that the custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255. Absent parents are required to support their children. BEM 255. Support includes **all** of the following: (1) child support, (2) medical support and (3) payment for medical care from any third party. BEM 255. A parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home. BEM 255.

Failure to cooperate without good cause results in disqualification. BEM 255. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255.

Here, there are two issues. The first issue concerns the Department's closure of Claimant's FAP case due to failure to provide verifications. The Department argues that Claimant failed to provide verification regarding her unearned income. Prior to the redetermination, Claimant had received a monthly check from her mother, which was considered unearned income. The Department representative who testified at the hearing stated that he spoke with Claimant on the telephone regarding her redetermination on or about February 4, 2013. It was during this discussion that the Department contends that Claimant indicated she had started a new job and had no longer received a monthly check from her mother. The Department and Claimant did not discuss at this time that verifications were needed from Claimant regarding her unearned income.

Claimant, on the other hand, contends that she did timely provide verifications regarding her earned income to the Department, but that the Department did not clearly communicate to her the requirements to comply with the verifications concerning her unearned income. Claimant; however, provided evidence that she faxed the Department her earned income verifications consisting of check stubs on February 25, 2013. Thus, the only issue remaining concerns Claimant's unearned income verifications.

A review of the record reveals that the verification checklist clearly asks Claimant to provide verification of wages, salaries, tips and commissions, but at the bottom of the form indicates, "Please provide additional information about: Updated Unearned Income at Redetermination." BAM 130 requires the department worker tell the client what verification is required, how to obtain it, and the due date. Here, the verification checklist does not clearly inform the client that she is to provide documentation from her mother that indicates she no longer receives a monthly check. If the Department was specific

about what was needed concerning Claimant's earned income, it could have very easily indicated this somewhere on the verification checklist. Claimant should not be expected to guess what is required to comply with a verification checklist.

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).

This Administrative Law Judge finds that Claimant's testimony regarding the discussions between the parties to be credible. Here, there is no evidence that the Department clearly and unambiguously informed Claimant that she was to provide a document regarding her mother's checks. All of the evidence shows that the verification checklist was cryptic with regard to what was needed concerning unearned income. Here, the Department has failed to properly assist Claimant with verifications as defined by BEM 130.

The second issue concerns the Department's closure of Claimant's FAP due to noncompliance with child support. Here, the Department agreed during the hearing that it had no evidence to support the closure and sanction. The Administrative Law Judge cannot affirm the Department without evidence.

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 closed Claimant's FAP case due to failure to return verifications and due to noncompliance with child support.

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 reopen Claimant's FAP case back to the date of closure (March 1, 2013).
- The Department shall initiate a redetermination of Claimant's FAP benefits and reissue Claimant a new verification checklist that specifically requests what verification documentation is needed.
- With regard to Claimant's purported noncompliance with child support, the Department should follow policy with regard to the mailing of documentation and establishing whether Claimant has good cause.
- To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental FAP.

IT IS SO ORDERED.

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

Date Signed: April 16, 2013

Date Mailed: April 17, 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.

CAP/cr

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