

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

IN THE MATTER OF:



Reg. No.: 201336320
Issue No.: 1005, 3008
Case No.: [REDACTED]
Hearing Date: April 23, 2013
County: Wayne County DHS #49

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 23, 2013, from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (JET Case Manager).

ISSUE

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

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 FIP and FAP.
2. Claimant was provided with a Verification of Student Information (DHS-3380).
3. Claimant was required to submit requested verification by February 1, 2013.
4. On March 6, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FIP and FAP cases for failure to submit verification in a timely manner.
5. On March 14, 2013, Claimant filed a hearing request, protesting the FIP and 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 FIP and 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.

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 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.

Only adequate notice is required for an application denial. BAM 130. Timely notice is required to reduce or terminate benefits. BAM 130. *Exception:* At redetermination, FAP clients have until the last day of the redetermination month or 10 days, whichever is later, to provide verification. See BAM 210 and BAM 130.

For FAP only, the department may not deny eligibility due to failure to cooperate with a verification request by a person outside the group. BAM 105, p 5. In applying this policy, a person is considered a group member if residing with the group and is disqualified.¹ BAM 105, p 5.

Here, the Department closed Claimant's FIP and FAP cases because a third party failed to provide a timely verification. Specifically, the Department forwarded a verification of student information request (DHS-3380) to the [REDACTED], but the school failed to timely return the verification request. The verification was due by February 1, 2013, but the school did not return the request until March 26, 2013. Claimant did not dispute any of the salient facts.

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 NW 2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department, contrary to BAM 105, p 5, improperly denied FAP eligibility due to failure to cooperate with a verification request by a person outside the group. Per BAM 105, page 5, for FAP only, "the department may not deny eligibility due to failure to cooperate with a verification request by a person outside the group." However, the verification policies do not prevent FIP closure in this circumstance. In addition, a review of the DHS-3360 reveals that Claimant's son was not a proper group member as he did not live with Claimant according to the school records. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department properly closed Claimant's FIP case but did not properly close Claimant's FAP case.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly closed Claimant's FIP case but did not properly close Claimant's FAP case.

¹ See DISQUALIFIED PERSONS in BEM 212.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department decision is **AFFIRMED-IN-PART and REVERSED-IN-PART**. The Department's decision to close the FIP case is affirmed but the decision to close FAP 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.
- The Department shall process the DHS-3380 received on March 26, 2013 and redetermine Claimant's FAP eligibility based on the DHS-3380.
- To the extent required by policy, the Department shall provide Claimant with supplemental and/or retroactive FAP benefits.

IT IS SO ORDERED.

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

Date Signed: April 29, 2013

Date Mailed: April 29, 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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MAHS