

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201340135
Issue No: 3008
Case No: [REDACTED]
Hearing Date: May 9, 2013
Gladwin 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 April 3, 2013. After due notice, a telephone hearing was held on May 9, 2013. Claimant and provided testimony and Claimant's husband, [REDACTED], appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist with the department's Gladwin County office, and [REDACTED], a regulation agent with the department's Office of Inspector General.

ISSUE

Whether the Department of Human Services (department) properly closed Claimant's Food Assistance Program (FAP) benefits 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 her April 4, 2012 application for FAP benefits, Claimant reported her address as [REDACTED], Michigan and indicated that her household included herself and three children. Claimant did not report her husband, [REDACTED], as a household member. (Department Exhibit 1)
3. On August 16, 2012, [REDACTED], a regulation agent with the department's Office of Inspector General (OIG), conducted an in-person interview of [REDACTED], neighbors of [REDACTED], Claimant's mother and owner of [REDACTED]

the home at [REDACTED], at which Claimant resides. [REDACTED] reported to [REDACTED] that Claimant and Claimant's husband, [REDACTED], live at the home along with several other people. (Department Exhibit 2)

4. On August 16, 2012, [REDACTED] also conducted an unannounced home visit to [REDACTED]. [REDACTED] was home and reported to [REDACTED] that current household members include herself, Claimant, and Claimant's husband, [REDACTED], among others. [REDACTED] further reported to [REDACTED] that Claimant receives all of her mail at a mailbox located at [REDACTED] but no home exists at that location. (Department Exhibit 2)
5. On September 24, 2012, Claimant reported to the department that she now lives in a camper at [REDACTED] and that her husband, [REDACTED], lives at [REDACTED]. (Department Exhibit 3)
6. On October 8, 2012, Claimant submitted to the department an Official Mail Forwarding Change of Address Order, which indicated that, effective October 9, 2012, [REDACTED] old mailing address of [REDACTED], Michigan, would be changed to [REDACTED], Michigan. (Department Exhibit 3)
7. On October 17, 2012, OIG agent [REDACTED] conducted a follow-up in-person interview with [REDACTED], at which time they reported to [REDACTED] that Claimant and Claimant's husband, [REDACTED], still resided at [REDACTED]. [REDACTED] further reported that a trailer had been moved onto the property at [REDACTED] in the previous two weeks but that no utilities had been installed yet. (Department Exhibit 4)
8. On October 17, 2012, OIG agent [REDACTED] also conducted an unannounced home visit to [REDACTED]. [REDACTED] was home and reported to [REDACTED] that current household members still included herself, Claimant, and Claimant's husband, [REDACTED], among others. [REDACTED] further reported to [REDACTED] that a trailer was installed on her adjacent property at [REDACTED] for Claimant and Claimant's husband; however, she did not expect it to be in livable condition until the following spring. (Department Exhibit 4)
9. On October 18, 2012, [REDACTED] obtained verification from the Gladwin County Post Office that the new address for [REDACTED] that Claimant provided the department on October 8, 2012 ([REDACTED], Michigan), does not exist. (Department Exhibit 4)
10. On March 5, 2013, Claimant reported to the department that neither she nor [REDACTED] now lives at [REDACTED] and that she has filed for divorce

from [REDACTED] and she resides at [REDACTED]. (Department Exhibit 6)

11. On March 5, 2013, the department mailed Claimant a Verification Checklist (DHS 3503), informing Claimant that the department needed her assistance in determining her eligibility for the FAP and Medicaid programs. The Verification Checklist requested that Claimant provide a copy of court papers on divorce, current proof of rent, mortgage or land contract payments, property tax and insurance bills on her home for the past year, as well as proof of the date on which [REDACTED] moved out of her home. The Checklist further requested that Claimant provide bank statements for all household members. This information was due to the department by March 15, 2013. (Department Exhibit 7)
12. On March 11, 2013, Claimant provided the department with a copy of her divorce complaint, filed on March 1, 2013, as well as her completed redetermination paperwork. (Department Exhibit 8)
13. On March 14, 2013, the department mailed Claimant a Verification Checklist (DHS 3503), informing Claimant that the department needed her assistance in determining her eligibility for the FAP and Medicaid programs. The Verification Checklist requested that Claimant provide a copy of "bank statements from the last 30 days for all in the home, including accounts for [REDACTED], [REDACTED], and [REDACTED], if [REDACTED] returns to the home; and 2012 summer and winter property tax statements." This information was due to the department by March 25, 2013. (Department Exhibit 10)
14. On March 19, 2013, Claimant provided the department with bank statements for [REDACTED] and [REDACTED] but failed to provide a bank statement for [REDACTED]. (Department Exhibit 12)
15. On March 20, 2013, OIG agent [REDACTED] conducted an in-person interview with [REDACTED], at which time they reported with certainty that the household composition at [REDACTED] remained the same. [REDACTED] further reported to [REDACTED] that there is still no one living in the trailer that had been moved onto the property at [REDACTED] and that [REDACTED] had told her that it was full of black mold. (Department Exhibit 13)
16. On March 20, 2013, [REDACTED] also conducted an unannounced home visit to [REDACTED]. [REDACTED] was home and reported to [REDACTED] that current household members still include herself, Claimant, and Claimant's husband, [REDACTED], Claimant's sons [REDACTED] and [REDACTED], and [REDACTED] girlfriend, [REDACTED] – and that Claimant and her husband have a bedroom in her basement. [REDACTED] and [REDACTED] were also present and confirmed with [REDACTED] that Claimant and her husband lived there. [REDACTED] further

reported to [REDACTED] that no one was living in the trailer installed on her adjacent property at [REDACTED] for Claimant and Claimant's husband; however she did not expect it to be in livable condition until the following spring. (Department Exhibit 13)

17. On March 29, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that, effective April 1, 2013, her FAP benefits were being closed due to her failure to verify or allow the department to verify information necessary to determine Claimant's eligibility for the FAP program. (Department Exhibit 15)
18. On April 2, 2013, Claimant submitted a timely hearing request protesting the closure of her FAP benefits case.¹ (Request for a Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code 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).

For purposes of establishing group composition and eligibility for FAP benefits, department policy provides that parents and their children under 22 years of age who live together must be in the same FAP group regardless of whether the child or children have their own spouse or child who lives with the group. BEM 212. To "live with" means to share a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. BEM 212.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from

¹ While Claimant's hearing request also challenged the department's closure of her Medical Assistance (MA) benefits, Claimant acknowledged at the May 9, 2013 hearing that she no longer challenged this issue.

self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

Department policy further 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.

In this case, while Claimant has continued to exclude her husband, [REDACTED], from her household for purposes of applying for FAP benefits, the department's Office of Inspector General has conducted three investigations between August 2012 and March 2013 at the residence at which Claimant resides at [REDACTED] and each investigation included interviews with Claimant's neighbors and Claimant's mother, all of whom consistently reported that Claimant and her husband, [REDACTED], live at the home with other family members including Claimant's mother, who owns the home. And, because Claimant failed to timely respond to the department's request for verification of [REDACTED] bank account statement, the department notified Claimant that, effective April 1, 2013, her FAP benefits would be closed due to her failure to verify or allow the department to verify information necessary to determine Claimant's eligibility for the FAP program.

At the May 9, 2013 hearing, Claimant testified that she and [REDACTED] are in the process of divorcing and that he moved out of her residence on March 1, 2013. Claimant further testified that [REDACTED] moved back in with her on March 14, 2013. [REDACTED] also testified that he did not live with Claimant between March 1, 2013 and March 14, 2013. However, [REDACTED] acknowledged that he was living with Claimant in *April 2012* (when Claimant applied for FAP benefits and did not report [REDACTED] as a household member) and he was living with Claimant in *October 2012* (contrary to Claimant's report to the department on October 8, 2012 that [REDACTED] had moved to [REDACTED], Michigan).

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). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds persuasive the statements made by Claimant's neighbors, [REDACTED], and Claimant's mother, [REDACTED], to OIG agent [REDACTED] on August 16, 2012, October 17, 2012, and March 20, 2013, wherein they each consistently confirmed that Claimant and Claimant's husband, [REDACTED], were living at [REDACTED] home at [REDACTED] throughout these time periods. Moreover, there is no indication that [REDACTED] and [REDACTED] made these statements under circumstances in which they felt coerced or intimidated or had any reason to be less than forthcoming.

This Administrative Law Judge likewise finds persuasive the testimony of Claimant's husband, [REDACTED], that he was living with Claimant in April 2012 and in October 2012, despite Claimant's own reports to the department to the contrary.

Against this backdrop, this Administrative Law Judge finds Claimant's testimony that [REDACTED] was not living with Claimant during the first two weeks of March 2013 to be unconvincing and unreasonable. Moreover, by Claimant's own admission, [REDACTED] was back living with her as of the time that she received the department's March 14, 2013 Verification Checklist, requesting that Claimant provide the department with verification of [REDACTED] bank statement by March 25, 2013.

Accordingly, the Administrative Law Judge finds, based on the competent, material, and substantial evidence presented at the May 9, 2013 hearing, the department acted in accordance with policy in closing Claimant's FAP benefits case for the benefit period effective April 1, 2013 for the reason that Claimant failed to verify necessary information for the department regarding Claimant's FAP group member, [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's FAP benefits case for the benefit period effective April 1, 2013 for the reason that Claimant failed to verify necessary information for the department regarding Claimant's FAP group member, [REDACTED]. The department's actions are therefore **UPHELD**.

IT IS SO ORDERED.

/s/

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

Date Signed: May 10, 2013

Date Mailed: May 13, 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 affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

201340135/SDS

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/aca

cc:

