

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014634
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: October 31, 2013
County: Macomb (12)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 31, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's fiancée). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Family Independence Specialist).

ISSUE

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

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 received FAP benefits.
2. Claimant was required to submit requested verification by September 5, 2013.
3. On September 19, 2013, the Department sent Claimant notice of its action to close Claimant's FAP benefits due to his alleged failure to provide verifications.
4. On September 27, 2013, Claimant's group member filed a hearing request, protesting the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .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.

The department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130. The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

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.

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.

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.

To verify information, the department uses documents, collateral contacts or home calls to verify information. BAM 130. A "document" is a written form of verification. BAM 130. It may include a photocopy, facsimile or email copy if the source is identifiable. BAM 130. A "collateral contact" is a direct contact with a person, organization or agency to

verify information from the client. BAM 130. It might be necessary when documentation is not available or when available evidence needs clarification. BAM 130. The client must name suitable collateral contacts when requested. BAM 130. The department worker may assist the client to designate them. BAM 130. The department worker is responsible for obtaining the verification. BAM 130.

Here, the Department maintains that Claimant provided all requested verifications by hand-delivery on the due date (September 5, 2013) except for a copy of a bank account statement and acceptable self-employment business receipts from Claimant's group member (██████████). Claimant, on the other hand, contends that all requested verifications were turned in on September 5, 2013 and that also on that date, the Department worker advised Claimant, for the first time, that the business receipts provided were not acceptable. However, the Department did not later provide Claimant with an additional opportunity to provide acceptable self-employment receipts. The Department worker did not return Claimant's telephone calls and voicemail messages.

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 has carefully considered and weighed the testimony and other evidence in the record. This Administrative Law Judge finds that Claimant did, in fact, turn in the requested bank statements. The issue concerns the self-employment receipts. The Department worker's testimony in this matter was troubling. Before being questioned, she failed to volunteer to the Administrative Law Judge that Claimant had turned in requested verifications (receipts) on September 5, 2013 and that the only issue was whether or not the receipts were acceptable. She provided no explanation as to why this information was not in the hearing summary. Similarly, the Department worker gave guarded testimony about whether or not she had any telephone conversations with Claimant or ██████████ concerning the verifications during the time period in question. ██████████, on the other hand, offered definitive testimony regarding their conversations and she included dates and specific information about what was discussed. This Administrative Law Judge believes Claimant and his group member (██████████) when they testified that the Department failed to return telephone messages after they discovered that the receipts they provided on September 5, 2013 were not acceptable. This Administrative Law Judge finds that the Department has failed to properly assist Claimant with verifications contrary to BEM 130. The Department has failed to give the client a reasonable opportunity to provide acceptable self-employment business receipts per BAM 130.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP case for failure to return requested verifications.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate Claimant's FAP case back to the date of closure.
2. The Department shall provide Claimant with any retroactive and/or supplemental FAP benefits that Claimant is entitled to the extent policy requires the Department do so.

IT IS SO ORDERED.

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

Date Signed: November 1, 2013

Date Mailed: November 4, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

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The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/aca

cc:

