

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20145649
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 19, 2013
County: Gladwin

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 November 19, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Family Independence Specialist).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case because Claimant failed to properly return requested verifications?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 29, 2013, Claimant applied for FAP (as well as other programs).
2. The Department approved Claimant for expedited FAP benefits on August 1, 2013.
3. During the relevant time period, Claimant's case had been transferred from Oakland County to Gladwin County.
4. On August 5, 2013, the Department sent Claimant a Wage Match Notice (DHS-4638) requesting wage verification for [REDACTED] income reported from [REDACTED] (an adult member of Claimant's group) from "[REDACTED]" ([REDACTED] former employer). The wage match was due September 4, 2013.

5. On August 6, 2013, the Department sent Claimant a Wage Match Notice (DHS-4638) requesting wage verification for [REDACTED] income reported from [REDACTED] also from [REDACTED] [REDACTED] [REDACTED] due September 5, 2013.
6. On August 6, 2013, the Department mailed Claimant a Wage Match Notice (DHS-4638) requesting wage verification for [REDACTED] income in the amount of [REDACTED] from [REDACTED], due September 5, 2013.
7. On August 26, 2013, August 29, 2013, August 30, 2013; September 5, 2013, September 7, 2013, and September 11, 2013, Claimant sent emails to her Department caseworker requesting assistance with several verification requests.
8. On September 10, 2013, Claimant's caseworker attempted to provide assistance by responding via email to Claimant's request for assistance. In this email, the Department caseworker suggested that Claimant conduct an online search in attempt to narrow down the employer information.
9. On September 13, 2013, the Department mailed Claimant a Verification Checklist (DHS-1605) which sought [REDACTED] wage information by September 23, 2013.
10. On September 13, 2013, the Department sent Claimant two Verification of Employment (DHS-38) forms requesting verifications from [REDACTED] employment at [REDACTED] and [REDACTED]. Both verifications were due September 23, 2013.
11. On September 23, 2013, Claimant returned check stub verifications from [REDACTED] and a DHS-38 completed by [REDACTED] with check stubs.
12. On September 25, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case, effective November 1, 2013, due to failure to provide requested verifications.
13. On October 1, 2013, Claimant requested a hearing to challenge the Department's decision to close her FAP case.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

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 worker] must assist them with the verifications but do not grant an extension. BAM 130. The department worker is instructed that he or she 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 should explain that their eligibility will be determined based on their compliance date if they return required verifications. BAM 130.

Here, the Department argues that it properly closed Claimant's FAP case because she failed to properly return requested verifications regarding [REDACTED] former employers ([REDACTED] and [REDACTED]) when Claimant lived in Oakland County. Claimant, on the other hand, contends that she lacks organizational skills and that she could not locate [REDACTED] former employers in order to obtain the requested verifications. Claimant also stated that [REDACTED] was unable to provide any assistance regarding his former employers. He was unable to find a check stub and did not know the business address or telephone number from either [REDACTED] or [REDACTED]. Accordingly, Claimant contends, she was forced to request assistance from her Department caseworker. The Department caseworker testified that she assisted Claimant by delaying the negative action date and suggested that she conduct an internet search to look for information regarding the employers. Claimant stated that she conducted the search and was unable to locate anything. The Department worker also testified that she located addresses for [REDACTED] and [REDACTED], but only after the DHS-1605 was sent and Claimant's FAP case was closed.

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. The salient issue in this matter is whether the Department caseworker provided Claimant with reasonable assistance with regard to the requested verifications. This Administrative Law Judge finds that the Department caseworker did act reasonably with regard to the request for assistance with verifications. The Department caseworker, contrary to BAM 130, delayed the negative action date before Claimant's FAP case closed. She also sent Claimant a return email regarding her continued problems obtaining verifications. Although the Department worker in this case did eventually locate addresses for [REDACTED] former employers at [REDACTED] and [REDACTED] after the negative action date, Claimant was never relieved of the obligation to procure these verifications. It is Claimant's responsibility to obtain these verifications. Claimant is in a better position than the Department to obtain these employment verifications. Claimant's inability to obtain these verifications was due to her failure of due diligence and lack of organization. Per policy, the Department worker is not required to do more than what she did under these circumstances.

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 acted in accordance with Department policy when it closed Claimant's FAP case for failure to return requested verifications. Claimant may reapply for FAP assistance, if necessary.

DECISION AND ORDER

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

IT IS SO ORDERED.

/s/

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

Date Signed: November 25, 2013

Date Mailed: November 26, 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.

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:

