

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20146041
2014581
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: November 7, 2013
County: St. Joseph

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, an in-person hearing was held on November 7, 2013, from Centreville, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Holly Chiddister and Ernie Riggs.

The Department received two requests for administrative hearing from the Claimant and both of these requests concern her eligibility for the Food Assistance Program (FAP). These two hearing requests are combined into a single hearing decision that resolves both issues.

ISSUES

Issue 1: Whether the Department of Human Services (Department) properly closed the Claimant's Food Assistance Program (FAP) benefits for failure to verify countable assets?

Issue 2: Whether the Department of Human Services (Department) properly determined the Claimant's countable household income?

FINDINGS OF FACT

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

1. The Claimant is an ongoing Food Assistance Program (FAP) recipient.

2. On August 27, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of September 6, 2013. The Department requested that the Claimant provide verification of vehicles owned by members of her household.
3. On August 29, 2013, the Claimant provided the Department with verification of a 2003 Hyundai, and a 2006 Saab.
4. On September 16, 2013, the Department provided the Claimant with assistance with obtaining verification of all vehicles possessed by her household by directing them to a Secretary of State Internet web page.
5. The Claimant reported that her son's employment would be ending as of September 12, 2013.
6. On September 17, 2013, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits as of September 30, 2013, for failing to provide verification of all vehicles owned by household members.
7. The Department received the Claimant's request for a hearing on September 19, 2013, protesting the closure of her Food Assistance Program (FAP) benefits.
8. The Department requested that the Claimant provide verification of her son's ending employment by September 26, 2013.
9. On September 27, 2013, the Department notified the Claimant that she was entitled to a monthly Food Assistance Program (FAP) allotment of [REDACTED], which was the benefit level that was frozen pending the September 19, 2013, request for a hearing.
10. The Department received the Claimant's request for a hearing on October 3, 2013, protesting the Department's failure to increase Food Assistance Program (FAP) benefits due to a decrease in household income.

CONCLUSIONS OF LAW

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.

Issue 1: Asset Verification

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or

written statements. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2013), pp 1-7.

The Claimant was on ongoing Food Assistance Program (FAP) recipient on August 27, 2013, when the Department began to suspect that the Claimant had not reported all countable assets owned by members of her household. On August 27, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of September 6, 2013. The Department requested that the Claimant provide the Department with verification of all vehicles owned by members of her household.

On August 29, 2013, the Claimant provided the Department with verification of a 2003 Hyundai, and a 2006 Saab.

After making a collateral contact with the Secretary of State, the Department suspected that there were vehicles owned by members of the Claimant's household that had not been reported. The Department became aware of trailers that it believed should have been reported by the Claimant. The Department also suspected that these unreported trailers hold watercrafts that were also not reported to the Department as countable assets.

The Claimant's husband testified that all vehicles owned by members of the household were reported to the Department along with verification of their value.

On September 16, 2013, the Department provided the Claimant with assistance with obtaining verification of all vehicles possessed by her household by directing them to a Secretary of State Internet web page.

On September 17, 2013, the Department determined that the Claimant's household possessed countable assets that had not been reported or verified to the Department. The Department sent the Claimant notice that it would close her Food Assistance Program (FAP) benefits as of September 30, 2013.

The Claimant argued that all assets owned by members of her household were reported and verified with the Department. The Claimant argued that vehicles and trailers registered with the Secretary of State that the Department suspects were not reported by the Claimant are not currently owned by any members of her household. The Claimant did not dispute the possibility that these assets may have been owned by household members in the past, but that they are not currently in their possession.

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. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2013), p 4.

This Administrative Law Judge finds that it is not within the jurisdiction of the Michigan Administrative Hearing System (MAHS) to make a determination as to whether the Claimant had a duty to report a change in ownership of any vehicles or trailers to the Secretary of State. While Secretary of State records may be used to provide verification to the Department, it is the Claimant's duty to report and verify her assets to the Department that is being considered here.

Furthermore, it is not relevant here whether the Department had the authority to access the Claimant's information held by the Secretary of State, but only whether the Department properly applied the information it obtained in accordance with its own policies to determine her eligibility to receive benefits.

Department policy requires that before determining eligibility, it will give the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. Department of Human Services Bridges Administrative Manual (BAM) 130 (July 1, 2013), p 7.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that there was discrepancy between the information the Claimant

reported to the Department on August 29, 2013, and information the Department obtained from another source, which was the Secretary of State. The Department had a duty to resolve this discrepancy as directed by BAM 130, and the Department failed to resolve this discrepancy. Therefore, the Department improperly applied its policies to the Claimant's circumstances when it closed her Food Assistance Program (FAP) benefits on September 17, 2013.

Issue 2: Ending income verification

The Department is required to verify non-excluded income that decreases or stops. Department of Human Services Bridges Eligibility Manual (BEM) 501 (July 1, 2013), p 9.

Income of person under the age of 18 that is attending high school and living with a person who provides care or supervision is excluded income. BEM 501, p 2.

A non-exempt Food Assistance Program (FAP) recipient may not refuse or quit employment. Department of Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 4. A Food Assistance Program (FAP) recipient deferred for educational programs must meet the student status policy, which may be met by working for at least 20 hours on average per week. Department of Human Services Bridges Eligibility Manual (BEM) 245 (July 1, 2013), pp 3-5.

In this case, the Claimant was an ongoing Food Assistance Program (FAP) recipient. The Claimant reported to the Department that her son's employment would be ending as of September 12, 2013. This income was non-excluded countable income that met the requirement of the student status policy outlined in BEM 245.

The Department requested that the Claimant provide verification of the ending employment by September 26, 2013. When the Claimant failed to provide the verification in a timely manner, the Department determined the Claimant's eligibility for the Food Assistance Program (FAP) without removing the son's earned income.

The Claimant argued that it was not necessary to provide the Department with verification of the ending employment.

However, the Department was required to verify both the ending of employment, and the reason that the employment was ending. A group member's failure to meet the criteria necessary to remain a member of the benefit group does not excuse the group from providing verification of a change in circumstances that affect their eligibility to receive benefits.

In this case, the Claimant does not dispute that her son's employment ended, and she failed to establish that verification of that loss of employment was submitted to the Department by September 26, 2013.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly determined that the Claimant failed to verify a change of circumstances necessary to determine her eligibility to receive

benefits. This may have justified closure of Food Assistance Program (FAP) benefits if those benefits had not been restored pending the results of a separate administrative hearing.

However, the Department has established that it properly determined the Claimant's household income on September 27, 2013, which included the son's income because no verification that the income had ended was provided to the Department.

Conclusion

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department failed to establish that it properly closed the Claimant's Food Assistance Program (FAP) benefits on September 17, 2013, but that it was acting in accordance with policy by not removing the unverified ending employment from its determination of the Claimant's Food Assistance Program (FAP) benefits that had pended due to her September 19, 2013, request for a hearing.

It will be necessary for the Department to review the Claimant's eligibility for Food Assistance Program (FAP) benefits after making a determination of her countable assets. Although it was proper for the Department to not remove this unverified ending employment on September 27, 2013, the Department cannot properly review eligibility to receive benefits without accurately reviewing the Claimant's countable income.

Therefore, the Department's Food Assistance Program (FAP) eligibility determination is reversed, and the Department is ordered to determine the Claimant's eligibility for Food Assistance Program (FAP) benefits consistent with this order.

DECISION AND ORDER

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 failed to establish that it properly closed the Claimant's Food Assistance Program (FAP) benefit because of her failure to provide verification of all countable assets.

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 properly refused to remove unverified ending employment from its determination of the Claimant's eligibility for the Food Assistance Program (FAP).

The Department's Food Assistance Program (FAP) eligibility determination 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. Give the Claimant a ten-day period to clarify the countable assets owned by members of her household, and specify which assets may have been unverified.
2. Give the Claimant a ten-day period to provide verification of her son's employment that ended in September of 2013.
3. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of October 1, 2013.
4. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
5. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/

Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/15/2013

Date Mailed: 11/15/2013

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

KS/sw

cc:

