

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

IN THE MATTER OF:



Reg. No.: 201367993
Issue No.: 1002
Case No.: [REDACTED]
Hearing Date: November 26, 2013
County: Kent

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 26, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's friend). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Family Independence Manager).

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) 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 8, 2013, the Department received Claimant's application for "cash assistance." On the application, Claimant listed that she had an 11 year old and a 15 year old in her household.
2. On July 15, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) which requested verifications of school attendance for both children by July 25, 2013.
3. On August 16, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's cash assistance application due to failure to properly return requested verifications.

4. Claimant requested a hearing on August 29, 2013 to challenge the denial of her application.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

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.

Verifications are considered timely if received by the date they are due. BAM 130. For FIP, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. 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.

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.

Effective July 1, 2013, BEM 245 requires dependent children to attend school full-time, and graduate from high school or a high school equivalency program, in order to enhance their potential to obtain future employment leading to self-sufficiency. Dependent children ages 6 through 17 must attend school full-time. BEM 245. A dependent child age 6 through 15 must attend school full-time. If a dependent child age

6 through 15 is not attending school full-time, the entire FIP group is not eligible to receive FIP. BEM 245.

The Department will verify school enrollment and attendance at application and redetermination beginning with age 7. BEM 245. The Department will also verify school enrollment and attendance at application, redetermination and at each birthday beginning with age 16. BEM 245.

Here, the Department argues simply that Claimant failed to return requested verifications concerning the truancy of her two children. Claimant, on the other hand, contends that the Department mailed her the verification checklist during the summer months and that she did not know how to obtain attendance information when school was not in session. Claimant further states that she requested assistance with the pending verifications and left messages with her caseworker, but the messages were not returned.

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 Department worker who attended the hearing did not have any knowledge about whether Claimant left messages with her caseworker requesting assistance. Although the notice of case action indicates that the reason for the application denial was failure to provide requested verifications concerning school attendance, the record contained evidence that the Department did, in fact, have these verifications. These documents consisted of copies of correspondence from the [REDACTED] ([REDACTED]) truancy/attendance officer dated May 20, 2013 which indicated that Claimant's 11 year old child had 12 excused absences, 14 unexcused absences and 5 times tardy. During the hearing, Claimant attempted to argue that her son was often ill and that he would miss the bus or that when he was late for school (although he attended class), the school would consider it as unexcused. According to the record, Claimant's child (11 year old; 5th grader) was not attending school regularly. Thus, although the Department's reason for denying the FIP application was due to failure to return requested verifications, the evidence shows that Claimant is not eligible for cash assistance because one of her children was not regularly attending school as required by BEM 245. Accordingly, the entire group is not eligible for FIP assistance.

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 denied Claimant's FIP application.

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: December 2, 2013

Date Mailed: December 3, 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

201367993/CAP

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:

