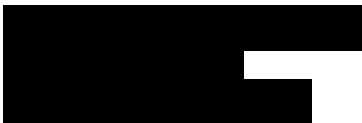


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201330984
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 17, 2013
County: Washtenaw County DHS #20

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 17, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor).

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's case?

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 was receiving FAP.
2. Claimant was provided with a Redetermination (DHS-1010).
3. Claimant was required to submit requested verification by December 3, 2012.
4. On December 14, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's case for failure to submit verification in a timely manner.
5. On February 20, 2013, Claimant filed a hearing request, protesting the closure.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Administrative Law Judge determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3001-3015

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 must periodically redetermine an individual's eligibility for active programs. BAM 210. This process is known as "redetermination." BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210. A complete redetermination is required at least every 12 months. BAM 210. However, the client must complete a DHS-1171, Assistance Application, to request a program that is not active at the time of redetermination. BAM 210. Local offices must assist clients who need and request help

to complete applications, forms and obtain verifications; see BAM 130, Obtaining Verification. BAM 210.

For FAP, benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. BAM 210. If the client does not complete the redetermination process, the Department will allow the benefit period to expire. BAM 210. The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, DHS-2063B, Food Assistance Benefits Redetermination Filing Record, or other redetermination document. BAM 210.

Interview requirements are determined by the program that is being redetermined. BAM 210. For FAP, an interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210. The Department worker is required to indicate on the individual interviewed/applicant-details screen in Bridges who was interviewed and how the interview was held, such as by telephone, in person etc. BAM 210. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview. BAM 210. The Department worker must conduct a telephone interview at redetermination before determining ongoing eligibility. BAM 210.

For all programs, a redetermination/review packet is considered complete when **all** of the sections of the redetermination form including the signature section are completed. BAM 210. When a complete packet is received, the Department worker shall record the receipt in Bridges as soon as administratively possible. BAM 210. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210.

If the redetermination packet is not logged in by the negative action cutoff date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. BAM 210.

In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file the redetermination through MI Bridges or file either a DHS-1010, Redetermination, DHS- 171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month.

The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. BAM 210. If timely redetermination procedures are met but too late to meet the normal issuance date, issue benefits within five workdays. BAM 210. Bridges will issue a payment for lost benefits if the client is **not** at fault for delayed processing that prevented participation in the first month. BAM 210.

The group loses their right to uninterrupted FAP benefits if they fail to do any of the following: (1) file the FAP redetermination by the timely filing date; (2) participate in the

scheduled interview; (3) submit verifications timely, provided the requested submittal date is **after** the timely filing date. BAM 210. Any of these reasons can cause a delay in processing the redetermination. When the group is at fault for the delay, the redetermination must be completed in 30 days. BAM 210.

Here, the Department maintains that Claimant failed to return the redetermination packet by the due date (December 3, 2012). Because Claimant failed to turn in the redetermination packet, the Department argues, they were unable to initiate a telephone interview. Claimant, on the other hand, did not dispute that he failed to turn in the redetermination packet. During the hearing, Claimant stated that he had transportation difficulties which hindered his ability to reach his PO Box. Then Claimant testified that after receiving the redetermination packet, he was overwhelmed by the demands of the holidays. Either way, there was no dispute that Claimant failed to turn in redetermination packet.

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 finds that the record clearly shows that Claimant has failed to make a reasonable effort to provide all requested verifications within the required time period. Claimant's statements that he had transportation problems and confusion over the holidays are not credible. Here, Claimant admitted to this fact. In addition, Claimant did not provide any reasonable explanation for his failure to turn in the requested verifications by the due date.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's FAP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

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: April 19, 2013

Date Mailed: April 22, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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