

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201333689
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 9, 2013
County: Washtenaw County DHS

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 9, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's girlfriend). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility 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)?

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. On February 12, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) which sought the following verification from Claimant's group member/girlfriend [REDACTED]: loss of employment/current employment status and [REDACTED] checking account.
3. Claimant was required to submit requested verification by February 22, 2013.
4. On February 25, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case effective March 1, 2013 for failure to submit verification in a timely manner.

5. On March 7, 2013, Claimant filed a hearing request, protesting the FAP 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 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 AACR 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. The department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130.

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.

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.

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.

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.

Here, the Department closed Claimant's FAP base because Claimant failed to provide the Department with verifications before the due date. The Department contends that the verification request was to identify the last employer for Claimant's girlfriend (██████████) and to obtain her updated checking account information. The Department representative testified that she spoke with Claimant and/or ██████████ prior to the February 22, 2013 due date regarding the verifications, but there was never a specific request for assistance. The Department worker did recall advising the Claimant and ██████████ to send in what you have.

Claimant, on the other hand, contends that the dispute concerns a communication breakdown. Claimant alleges that they left several telephone messages with their caseworker, but the messages were not returned. According to ██████████ testimony, she was unclear whether the Department required verification from former employer ██████████. Apparently, ██████████ experienced difficulty obtaining verifications from ██████████. Because the Department failed to return their messages and they were unclear what verifications to submit, Claimant decided not to send anything to the Department. "Claimant submitted an email exchange dated February 21, 2013 between ██████████ and ██████████ which indicated that the company does not provide a letter of separation unless it is due to layoff, downsize, etc., The email also implied that ██████████ should forward the forms from the state directly to ██████████ to provide confirmation." Claimant also argues that he actually complied with the verification because the verification checklist says to call or turn in the documents before the due date.

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).

There is no dispute that Claimant failed to comply with the verification request for checking account information or last employer information. Although the verification checklist says to call before the due date, policy does not provide that a client may simply call their caseworker to avoid meeting the verification requirements. The Department specifically and unambiguously provided verification instructions on the DHS-3503 form. There was no dispute that the Department needed information regarding Ms. Renshaw's last employer and checking account information. This

information was needed so the Department can determine Claimant's continued eligibility for FAP. Without it, the Department cannot make this determination.

In this case, Claimant should have, at the very least, forwarded the checking account information to the Department before the due date. Instead, Claimant did not send anything to the Department. The reasons for failing to do so are unacceptable. This Administrative Law Judge finds that the Department's position to be more credible. Here, Claimant has failed to make a reasonable effort to provide all requested verifications within the required time period.

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

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, 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 12, 2013

Date Mailed: April 16, 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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