

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201334268
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 16, 2013
County: Wayne (18)

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 16, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] (Claimant's Authorized Hearing Representative) and [REDACTED] (Claimant). 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 Food Assistance Program (FAP) 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. On February 11, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503).
3. Claimant was required to submit requested verification by February 21, 2013.
4. On February 25, 2013, 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 March 6, 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 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.

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. Exception: Alien information, blindness, disability, incapacity, incapability to declare one's residence and, for FIP only, pregnancy must be verified. BAM 130.

Here, the Department maintains that it sent Claimant a verification checklist which requested Claimant provide verification of her checking account in the form of a current statement from bank or financial institution or a DHS-20 Verification of Assets form. According to the Department, Claimant's FAP case was closed because she failed to provide requested verifications. Claimant, on the other hand, contends that she provided the following to the Department previously on January 29, 2013: bank statement from Community Focus Credit Union dated October 2012, money market account statement from Flagstar Bank and a bank statement from PNC Bank. Claimant acknowledged that she received the verification checklist, but she did not send any documentation because she assumed the January 29, 2013 documentation was sufficient. In response, the Department takes the position that Flagstar Bank documentation was insufficient because it did not contain any identifying information (i.e, name on account, address, etc.). Claimant states that the Department could have cross-referenced the information by using the account number on the document.

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 whole record shows that Department's position to be more credible. Rather than comply with the verification checklist, Claimant made some incorrect assumptions. First, Claimant incorrectly assumed that the Department already had all requested verifications that she sent them on January 29, 2013. However, the Department would not have mailed the verification later on February 11, 2013, had Claimant provided all necessary verification. Under the circumstances, Claimant has failed to make a reasonable effort to provide all requested verification(s) 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.

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 19, 2013

Date Mailed: April 19, 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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