

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

IN THE MATTER OF:



Reg. No.: 201335412
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 17, 2013
County: Macomb (12)

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] (PATH Case Manager).

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. Claimant was provided with a Verification Checklist (DHS-3503).
3. Claimant was required to submit requested verification by January 29, 2013.
4. On March 12, 2013, Claimant filed a hearing request (DHS-18), 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 AACRS 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 worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130. For FAP only, 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. Exception: Alien information, blindness, disability, incapacity, inability to declare one's residence and, for FIP only, pregnancy must be verified. BAM 130.

Here, the Department maintains that Claimant failed to provide employment verifications, which prompted the FAP closure. Claimant, on the other hand, contends she did, in fact, provide the Department with all requested verifications.

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).

During the hearing, Claimant testified that she placed the requested verifications in a drop box a day or two before the January 29, 2013 due date. Then, Claimant states that she called her Department caseworker (██████████) and inquired whether she had received them. According to Claimant, ██████████ informed her that there were problems with the local office drop box or that the drop box had been "tampered with." When the Administrative Law Judge asked ██████████ about Claimant's testimony, she was unable to definitively dispute Claimant's testimony. ██████████ repeatedly testified that she could not recall.

This Administrative Law Judge finds that both Claimant and ██████████ to be credible. However, because Claimant recalls that she sent the verifications in timely and recalled the telephone conversations with ██████████, this Administrative Law Judge finds her version of events to be credible. Particularly, since the Department did not offer any contradictory testimony. In addition, it should be noted that the Department did not provide a copy of the Notice of Case Action (DHS-1605) in the hearing packet.

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 improperly closed Claimant's case.

DECISION AND ORDER

During the hearing, Claimant stated that she no longer wished to dispute the Medical Assistance (MA) issue. Accordingly, Claimant's MA request for hearing is **DISMISSED**.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not act properly concerning Claimant's FAP closure.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Initiate steps to re-open and re-instate Claimant's FAP case back to the date of closure.

The Department shall also provide Claimant with retroactive and/or supplemental FAP benefits to the extent required by applicable policies.

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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