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

IN THE MATTER OF:

[redacted]

Reg. No.: 201338575
Issue No.: 3008
Case No.: [redacted]
Hearing Date: May 1, 2013
County: SSPC-West

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 three-way telephone hearing was held on May 1, 2013 from Lansing, Michigan. Claimant appeared via telephone and provided testimony. 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. On February 21, 2013, the Department received Claimant's application for FAP.

2. The Department approved Claimant's application for expedited FAP benefits.

3. On February 27, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503).

4. Claimant was required to submit requested verification by March 11, 2013.

5. On March 18, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's expedited FAP benefits effective April 1, 2013 due to failure to submit verification in a timely manner.

6. On March 28, 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 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.

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.

Here, the Department representative who attended the hearing indicated that Claimant failed to timely provide all requested verifications consisting of bank statements or financial information. The Department maintains that on March 12, 2013, it received a

[redacted] bank statement from Claimant that was incomplete as it did not indicate a name or any amounts. Claimant, on the other hand, contends that she mailed a 2 (two) page bank statement from [redacted] on March 8, 2013 and that the Department only copied the second page.

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. This Administrative Law Judge finds that Claimant's testimony that she mailed both pages of the financial statements to the local office on March 8, 2013 is credible. In addition, the Department representative testified that the Self-Service Processing Center (SSPC) West is attempting to implement a paperless system for processing verifications and that Claimant, most likely, timely mailed her 2 (two) page verification to the local office who failed to copy both pages before it was placed in the SSPC file. This Administrative Law Judge also agrees with the Department representative's assessment in this regard. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that Claimant properly and timely provided the Department with the requested verifications but that the Department failed to properly process them.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department improperly 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 not act properly when it closed Claimant's FAP expedited case.

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:

- Reopen, re-register and reprocess Claimant's FAP case back to the date of closure (April 1, 2013).

- Provide Claimant with retroactive and/or supplemental FAP benefits to the extent required by policy.

IT IS SO ORDERED.

/s/_____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 6, 2013

Date Mailed: May 7, 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.

CAP/aca

cc: [redacted]