

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-18684
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: February 13, 2014
County: Macomb # 36

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Claimant's husband and FAP group member and [REDACTED] Attorney and representative. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly terminate Claimant's FAP benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On or around September 23, 2012, Archon Khamo loaned Claimant \$1500.
2. On October 29, 2013, the Department sent Claimant a Verification Checklist. The checklist requested that [REDACTED] "PLEASE PROVIDE LETTER FROM ALL FAMILY MEMEBERS HELPING YOU AT THIS TIME, HAVE THEM SIGN AND DATE AND PUT A NUMBER WHERE THEY CAN BE REACHED. THANK YOU." (Exhibit 2.1).
3. Sometime after October 29, 2013, Claimant and the worker had a phone discussion regarding the verification checklist.
4. On November 8, 2013, Claimant faxed the Department a letter from a family member about a recent loan. The family member was not [REDACTED]

5. On November 13, 2013, the Department terminated Claimant's FAP benefits effective October 17, 2013 for failure to verify.
6. The Department's sole issue that led to the closure was that Claimant did not provide a letter from [REDACTED] indicating that [REDACTED] was not helping Claimant or her family.
7. [REDACTED] had not given or loaned any money to Claimant or his family since September 23, 2013.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, [REDACTED] and the worker offered conflicting testimony regarding the conversation about the verification checklist. However, the contents of the discussion are not material. The Verification Checklist is clear and unambiguous, and the conflicting testimony is neither helpful nor necessary in resolving whether Claimant complied with the Verification Checklist. The Department certainly cannot add to the requirements listed in the Verification Checklist by phone, so the key issue in this case is whether [REDACTED] complied with the plain language of the verification checklist. [REDACTED] complied with the plain language of the Verification Checklist, which requested that Claimant "PROVIDE LETTERS FROM ALL FAMILY MEMEBERS HELPING YOU AT THIS TIME. . ." On November 8, 2013, [REDACTED] provided a letter from the only family member helping him at that time. A letter from someone who helped Claimant and [REDACTED] over one year prior is not someone "HELPING YOU AT THIS TIME."

The worker argued that Claimant needed to provide a letter from a family member who loaned him money over a year prior to the verification checklist and indicate that this family member was no longer assisting Claimant. Whether policy would support such a request or not, nothing in the language of the Verification Checklist requires it and instead requires that Claimant "PROVIDE LETTER FROM ALL FAMILY MEMEBERS **HELPING YOU AT THIS TIME**" which Claimant did. (Exhibit 2.1, emphasis in original.). The phone conversation was not a clarification of the checklist but, if the Department's version of the call were accepted over Claimant's, the request by phone contradicted and changed from the language on the verification checklist. If the Department needed such information, then it would be appropriate to request it on a verification checklist rather than by phone. BAM 130 directs the Department to use a checklist to request

information required by policy. The worker's instructions cannot negate and change the plain language of the verification checklist for purposes of a negative under BAM 130. If the language was not correct, then another checklist might have been needed rather than verbal and contradictory instructions.

Notably, the worker's testimony at the hearing emphasized the confusion inherent to adding additional verbal requirements that conflicted with the plain language of the verification checklist. The worker testified repeatedly that she told [REDACTED] that he needed a letter from "all family members" indicating whether the family members were helping Claimant or not. When pressed, the worker indicated that she told [REDACTED] only need such a letter from those who had helped Claimant's family in the past, which, again, differs from the language on the Verification Checklist and the worker's previous testimony.

[REDACTED] argued that he had a language barrier. This allegation did not affect the Administrative Law Judge's decision. Even with a language barrier, Claimant is responsible for complying with the plain language of the verification checklist, which he did.

Claimant questioned whether the Department could treat an alleged loan as income. That issue is not before the Administrative Law Judge. Any decision by the Department to do so over one year ago is not an issue covered by the Hearing Request in this case. Further, the Department has not issued a Notice of Case Action concerning the amount Claimant disclosed to the Department on November 8, 2013 because it terminated benefits instead. Thus, there has been no decision in this regard to review. Because the Department considered the loan to be a gift and had annualized it from the date received, it appears that the loan in September, 2013 would not factor into the relevant FAP budget at times relevant to the hearing.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it terminated Claimant's FAP benefits on November 13, 2013 effective October 17, 2013.

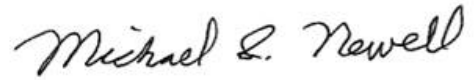
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate benefits to the closure date and redetermine eligibility.

2. In accordance with Departmental policy, issue any retroactive or supplemental benefits as may be necessary.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 21, 2014

Date Mailed: February 21, 2014

NOTICE OF AP PEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

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The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

MSN/las

cc:

