

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011394
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: October 14, 2014
County: Kent-District 1 (Franklin)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 October 14, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED], and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (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. A Redetermination packet was mailed to Claimant on July 15, 2014, with his responses due by August 6, 2014.
2. Claimant completed and returned the packet on July 29, 2014. (Exhibit 1 Pages 5-10.)
3. During an interview, Claimant reported he was self-employed. On August 14, 2014, the Department mailed a Verification Checklist (VCL), which was due by August 25, 2014. (Exhibit 1 Page 12.) He was to provide verification of his business receipts to that date, accounting or other business records, or a recent income tax return.

4. Claimant provided the Department with copies of “payroll” checks he had written to himself on [REDACTED]. (Exhibit 1 Pages 13-18.)
5. On August 28, 2014, when the Department spoke with Claimant about his verification attempt, Claimant told the Department he was not a part-owner of the company, and he was not self-employed.
6. On August 28, 2014, the Department closed Claimant’s FAP effective September 1, 2014. (Exhibit 1 Pages 23-24.)
7. On September 5, 2014, the Department received Claimant’s hearing request.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105. Per BEM 103, the Department is to:

“Send a negative action notice when:

“The client indicates refusal to provide a verification, or

“The time period given has elapsed and the client has not made a reasonable effort to provide it.”

For all programs, when it comes to verification, BAM 130 states, “The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

BEM 502 (8/1/14) sets forth the policy with respect to self-employment income.

“Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board.” Id at 1.

“It is sometimes difficult to determine if an individual’s income should be entered in the earned income or self-employment LUW. Make a determination based on available information and document your rationale.” Id.

“The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts.” Id at 2. (Emphasis in original.)

Claimant told the Department that he was self-employed. He later denied that he was self-employed, and denied that he was a part owner of the company. The Department obtained a report from Kent County showing Claimant was identified as the owner of [REDACTED]. (Exhibit 1 Page 15.) It also obtained a report from the Department of Labor and Economic Growth (Exhibit 1 Page 20), which identified him as the registered agent of [REDACTED]. Claimant testified at the hearing that he is a 20% owner of the corporation, and that his parents own the rest of the corporation. “S-Corporations and Limited Liability Companies (LLCs) are not self-employment.” BEM 502 at 1.


Claimant produced copies of checks, which he said were his wages for work. He testified that it would be a financial burden to copy “thousands” of documents to report income and expenses from the business. It does not seem credible that someone who is only earning [REDACTED] per month for his time would have “thousands” of documents to copy. Furthermore, he has shown that he is not credible because he told the Department first that he was self-employed. Then, when it became inconvenient to document his self-employment income, he told them he was not self-employed. He also told the Department that he was not an owner of the business, but the evidence produced at the hearing – including his testimony – establish that he is an owner.

Regardless, Claimant did not produce the documents that were required of him. The time passed for him to provide it, and he did not make a reasonable effort to provide it.

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 acted in accordance with Department policy when it closed Claimant’s FAP.

DECISION AND ORDER

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


Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/16/2014**

Date Mailed: **10/16/2014**

DJ / jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **may** order a rehearing or reconsideration on its own motion.

MAHS **may** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

