

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017103
Issue No.: 3002, 6002
Case No.: [REDACTED]
Hearing Date: January 13, 2015
County: Oakland-District 2

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on January 13, 2015, from Lansing , Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly deny the Claimant's application for assistance?

FINDINGS OF FACT

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

1. The Claimant applied for Food Assistance Program (FAP), Medical Assistance (MA), and Child Development and Care (CDC) benefits on September 16, 2014.
2. On September 16, 2014, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of her income by September 26, 2014.
3. On September 29, 2014, the Department notified the Claimant that it had denied her application for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits for failure to provide the Department with information necessary to determine her eligibility to receive benefits.
4. On November 25, 2014, the Department received the Claimant's request for a hearing protesting the denial of her application for assistance.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2014), p 5.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (October 1, 2014), pp 1-9.

On September 16, 2014, the Claimant applied for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits. The Department requested verification of her income by September 26, 2014.

The Department's representative testified that verification of only one week of income was received when it required verification of at least 30 days of income to determine her eligibility to receive benefits.

The Claimant testified that she sent the Department four paycheck stubs by fax, which was verification of her income over the previous 30 days. The evidence on the record supports a finding that the Claimant sent the Department a four page fax where the first page of material was a paycheck stub. The evidence on the record does not contain a copy of the remaining three pages.

The Department's representative testified that if the Claimant was unsure as to whether she had satisfied the requirements of the September 16, Verification Checklist (DHS-3503), she had the option of asking her caseworker questions.

This Administrative Law Judge finds that the Claimant had no reason to ask any questions where he believed that she had provided the Department with verification of her income and had no reason to know that the Department was unsatisfied with what was received.

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). Moreover, 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). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

The Department will send a negative action 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. Department of Human Services Bridges Administrative Manual (BAM) 130 (April 1, 2014).

This Administrative Law Judge finds that the Claimant was willing to provide the Department with the details of her employment and earned income. This Administrative Law Judge finds that there is more than a scintilla of evidence supporting a finding that the Claimant provided the Department with four copies of paycheck stubs. This Administrative Law Judge finds that the Claimant made a reasonable attempt to provide the Department with the information necessary to determine her eligibility for the Food Assistance Program (FAP) and Child Development and Care (CDC) programs.

The Department's representative testified that the Claimant failed to provide verification of a recent loss of employment to the Department in a timely manner. The Department's representative testified that some of the material provide by the Claimant were scanned by not processed until after the application for assistance had been denied.

This Administrative Law Judge finds that the evidence on the record supports a finding that the verification material submitted by the Claimant in a timely manner was delayed or lost by the Department due to a technical error with its scanning and processing equipment. Based on this evidence, this Administrative Law Judge finds that the Claimant made a reasonable attempt to provide the Department with all the information necessary to determine her eligibility for benefits.


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 denied the Claimant's application for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits.

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. Reprocess the Claimant's September 16, 2014, application for assistance and initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits as of the application date.
2. Allow the Claimant a ten-day period to submit any additional material necessary to determine her eligibility for benefits.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **1/15/2015**

Date Mailed: **1/15/2015**

KS/las

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:

