

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-30625
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: March 27, 2014
County: Oakland-02

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 27, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to her failure to comply with the verification requirements?

FINDINGS OF FACT

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

1. Claimant was active for FAP.
2. On January 24, 2014, the Department mailed Claimant a Verification Checklist (DHS-3503) which requested verification of home insurance and her savings account by February 3, 2014.
3. On February 21, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case effective February 1, 2014 because Claimant failed to return verification of her bank savings account.
4. On February 26, 2014, Claimant requested a hearing to dispute the Department's action.

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.

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p 18. Clients must take actions within their ability to obtain verifications. BAM 130 (1-1-2014) and BEM 702 (1-1-2014). 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. The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

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.

Here, the Department contends that Claimant simply failed to provide verification of her bank savings account which resulted in the closure of her FAP case. Claimant, on the other hand, contends that had verbal and written communication with the Department to inform the Department that she did not have a savings account. She claims that the Department chose to close her FAP case rather than contact her to inquire about her account. The Department, in response, indicates that they called Claimant's bank to confirm whether Claimant had a savings account and the bank refused to provide this information without authorization.

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. The hearing record contains a letter dated January 22, 2014 directed to the attention of [REDACTED] (Claimant's caseworker) from [REDACTED] Assistant Manager from [REDACTED] which indicates the following, "This letter is to certify that [REDACTED] is an account holder at [REDACTED]. Account [number withheld] currently has an available balance of [REDACTED]. If you need any additional information, please feel free to contact me." Claimant proposes that this letter satisfies her verification that she did not have a savings account. The Department, on the other hand, contends that the letter is ambiguous and does not specify whether Claimant has a savings account. This Administrative Law Judge agrees with the Department. This letter does not comply with the verification checklist request for savings account information. While this document may satisfy a request for checking account verification, it does not comply with a verification request for savings account information. The document does not make any mention of a savings account belonging to Claimant. The Department should not be expected to conclude anything regarding Claimant's account in this regard. The Department's DHS-3503 was unambiguous and clearly requested that Claimant provide verification of a savings account. The fact that Claimant provided a letter from [REDACTED] indicating that she had \$[REDACTED] in her checking account demonstrates that she could have just as easily obtained a letter from the bank which clearly provided that Claimant does not have a savings account. The DHS-3503 speaks for itself when it asks for verification of a savings account.

Claimant also takes the position that she verbally advised the Department that she did not have a savings account. This Administrative Law Judge does not find these statements credible because the case comments summary contained in the record are contemporaneous. These records coupled with the Department worker's testimony that Claimant failed to provide savings account verification by the February 3, 2014 due date demonstrates that the Department properly closed Claimant's FAP case due to failure to comply with the verification checklist.

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.

DECISION AND ORDER

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

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 1, 2014

Date Mailed: April 1, 2014

NOTICE OF APPEAL: 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

CAP/las

cc:

