

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201430986
Issue No: 3002
Case No: [REDACTED]
Hearing Date: April 2, 2014
Macomb County DHS #20

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 April 2, 2014 from Lansing, Michigan. Claimant appeared and provided testimony. The Department of Human Services (Department) was represented by [REDACTED], a hearings facilitator with the Department's Macomb County office.

ISSUE

Whether the Department properly closed Claimant's Food Assistance Program (FAP) benefits for failure to return the required verification?

FINDINGS OF FACT

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

1. Claimant was a recipient of FAP benefits at all times relevant to this hearing.
2. On February 4, 2014, the Department issued Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide verification of her loss of employment from [REDACTED], and verification of her new employment with [REDACTED]. The Department advised Claimant that her failure to provide the requested information or call her specialist by February 14, 2014 may result in the denial, decrease, or cancellation of her benefits.
3. At Claimant's request, the Department extended Claimant's verification deadline until February 24, 2014.

4. On February 20, 2014, Claimant submitted the requested verification of her employment with Perma-tex and a document from [REDACTED] which failed to indicate her stopped employment.
5. On February 28, 2014, the Department mailed Claimant a Notice of Case Action (DHS 1605), informing her that FAP benefits would be closed effective April 1, 2014 due to her failure to timely provide the required verification of her loss of employment.
6. On March 7, 2014, Claimant requested a hearing contesting the department's closure of her FAP benefits. In doing so, Claimant also submitted the required verification from [REDACTED] that she was no longer employed there.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. 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. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. 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.

In the instant case, Claimant is disputing the department's closure of her FAP benefits for failure to timely provide the requested verification of the loss of her former employment

At the April 2, 2014 hearing, the Department's representative, Kathleen Scorpio-Butina acknowledged that Claimant's required verification of her loss of employment from The Chocolate Bar, while not submitted by the February 24, 2014 deadline, was submitted within the negative action period (on March 7, 2014) prior to the effective date of the closure of Claimant's FAP benefits on February 1, 2014. Moreover, it is clear that that, given Claimant's timely submittal on February 20, 2014 of the required verification of Claimant's current employment and what Claimant believed to be the required verification of her prior employment, Claimant made a reasonable effort to comply as provided in BAM 130.

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).

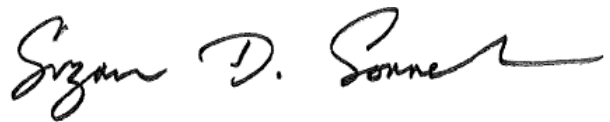
This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the April 2, 2014 hearing, because Claimant did indeed demonstrate a reasonable effort to provide the required verification of her former employment and because Claimant ultimately provided the correct verification within the relevant negative action period, Department did not act in accordance with policy in closing Claimant's FAP benefits effective April 1, 2014 for failure to provide the requested verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not act in accordance with policy in closing Claimant's FAP benefits effective April 1, 2014 for failure to provide the requested verification. Accordingly, the Department's action in this regard is **REVERSED** and the department shall immediately do the following:

1. Reinstate Claimant's FAP benefits for the benefit period effective April 1, 2014; and
2. Issue any supplement checks for any months she did not receive the correct amount of benefits if she was otherwise entitled to them.

It is **SO ORDERED**.



Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 4, 2014

Date Mailed: April 4, 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.

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

SDS/hj

201430986/SDS

cc:

