

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20147293
Issue No.: 2001, 3008
Case No.: [REDACTED]
Hearing Date: December 3, 2013
County: Allegan

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, an in-person hearing was held on December 3, 2013, in Allegan, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Family Independence Manager) and [REDACTED] (Eligibility Specialist).

ISSUES

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to failure to properly return requested verifications?

Did the Department properly close Claimant's Adult Medical Program (AMP) case due to excess income?

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 and AMP.
2. During the relevant time period, Claimant lived alone in an apartment.
3. On July 2, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) which requested that Claimant provide the Department with verification of her wages and loss of employment. The proofs were due by July 12, 2013.

4. On July 9, 2013, the Department received, via facsimile, a completed Verification of Employment (DHS-38). The DHS-38 indicated, among other things, that Claimant started working for [REDACTED] as a receptionist on June 18, 2013. According to the DHS-38, Claimant is paid [REDACTED] per hour, is expected to work 40 hours per week and earns an average weekly salary of [REDACTED].
5. On July 17, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which: (1) closed Claimant's AMP case effective August 1, 2013 because "Income exceeds the limit for this program. Case not eligible," and (2) closed Claimant's FAP case effective August 1, 2013 because "Verification of Bank Account Checking (BEM 400) was not returned. . ."
6. On October 14, 2013, the Department received Claimant's request for a hearing protesting the Department's determinations of her FAP and AMP eligibility.

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).

In the instant matter, Claimant requested a hearing to dispute the Department's determination regarding her FAP and AMP cases. This Administrative Law Judge will address the issues related to each program separately.

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.

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. The department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130.

With regard to the FAP issue, Claimant contends that the Department improperly closed her FAP case based on the notice of case action dated July 17, 2013. According to Claimant, the Department falsely indicated that Claimant failed to timely return verifications concerning her bank checking account. The Department representatives who attended the hearing agreed that it closed Claimant's FAP case in error and indicated that her FAP case has since been reinstated.

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 concerning the FAP issue. Here, the evidence shows that the Department's July 2, 2013 verification checklist only requested verification of Claimant's wage information which was due by July 12, 2013. The evidence further shows that Claimant timely returned this verification request on July 9, 2013. The Department did not produce any evidence in this record to show that Claimant was sent verification requests for bank checking account information. Accordingly, the Department's July 17, 2013 notice of case action which purports to close Claimant's FAP case for failing to provide verification of her bank checking account information is clearly an error. This Administrative Law Judge cannot affirm the Department's decision to close Claimant's FAP case for the reason stated in the July 17, 2013 notice of case action.

Claimant also requested a hearing concerning the Adult Medical Program. The AMP is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10. AMP monthly income limits are based on a person's living arrangement. See RFT 236 (6-1-2013). An individual living independently has a monthly income limit of \$336.00. RFT 236.

In this regard, Claimant has advanced several arguments. Claimant asserts that the Department had improperly delayed taking the proper action which resulted in an over-issuance or an under-issuance of benefits. Claimant also alleged that she had been discriminated against and that her Department caseworker has been

unprofessional. She vehemently disputed the Department's determination of her AMP eligibility and challenged many actions taken by the Department. Claimant also cited several policies in support of her position. Due to the voluminous nature of Claimant's arguments, this Administrative Law Judge cannot possibly address each and every one of Claimant's allegations individually. However, this Administrative Law Judge has determined that the salient issue, which gave rise to Claimant's request for hearing, concerns the Department's decision to close her AMP case due to excess income. In that regard, the Department takes the position that it received verification from Claimant's employer that she was no longer eligible for AMP due to excess income. Claimant disagrees and states that the Department has not properly calculated her income for purposes of AMP.

This Administrative Law Judge has also carefully considered and weighed the testimony and other evidence in the record concerning the AMP issue. Although the notice of hearing in this matter requires Claimant to provide proposed exhibits at least 7 days prior to the hearing, this Administrative Law Judge permitted Claimant to introduce exhibits at the hearing. The Administrative Law Judge admitted into the record 127 (one hundred and twenty-seven) pages of Claimant's exhibits and has reviewed them all. Many of the exhibits consist of copies of portions of DHS policies including but not limited to: BPG Glossary definitions, BAM 210, BAM 220, BEM 105, BEM 111, and BAM 600. The record also contained copies of emails between Claimant and her Department caseworker. These emails consisted of ongoing conversations between the parties. The record also included a State Emergency Relief Decision Notice (DHS-1419) along with some gas bills related to SER. However, none of these documents directly related to the issue concerning the verification of Claimant's income for purposes of AMP.

The DHS-38 (verification of employment) completed by Claimant's employer (██████████) shows that Claimant's weekly income averaged ██████████ per week (According to the DHS-38, Claimant earns ██████████ per hour and works 40 hours per week). The DHS-38 is genuine and does not appear to be forged or fabricated in any manner. The Department also provided copies of Bridges AMP income budgets from both before and after the closure. Previously, the Department budgeted Claimant's monthly net earned income to be ██████████, which was below the \$336.00 monthly net income standard set forth by RFT 236. However, based on the verification of Claimant's monthly ██████████ earned income from her employment at ██████████, she is over the \$336.00 income threshold. See RFT 236.

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 closed Claimant's FAP case due to failure to provide requested verifications, but did act in accordance with Department policy when it closed Claimant's AMP case due to excess income.

Claimant also alleged that she is a victim of discrimination and/or that her department caseworker has engaged in some form of misconduct. Administrative Law Judges have

no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940). This Administrative Law Judge does not have jurisdiction over Claimant's claims of discrimination and the claims that her Department caseworker lied or otherwise acted unprofessionally.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the AMP closure due to excess income and **REVERSED IN PART** with respect to the FAP closure based on failure to return verifications of her bank checking account.

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. If not already done, the Department shall initiate a reinstatement of Claimant's FAP case back to the date of closure and shall redetermine Claimant's FAP eligibility.
2. To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental FAP benefits.

IT IS SO ORDERED.

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

Date Signed: December 6, 2013

Date Mailed: December 9, 2013

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

CAP/aca

cc:

