

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

IN THE MATTER OF:



Reg. No.: 15-005399
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: June 11, 2015
County: Allegan

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on June 11, 2015, in Allegan, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Health and Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits due to his failure to comply with 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. On May 16, 2014, as a result of Claimant's contact with the Department informing them his SSI had been closed, the Department sent Claimant a Quick Note requesting a copy of the trust due by May 28, 2014. The Quick Note was also mailed to the family attorney and the executor (his sister), requesting a copy of the trust to determine Claimant's continued eligibility for FAP. (Dept. Ex A, p 3).
2. On June 3, 2014, the Department mailed Claimant's sister (executor of his father's estate), a Verification Checklist requesting a copy of the trust due by June 13, 2014. (Dept. Ex A, pp 4-5).
3. On June 12, 2014, the Department received a copy of page 4 of 8 of the trust. (Dept. Ex A, p 12).

4. On June 12, 2014, the Department notified Claimant's sister, that per policy, the Department needed a copy of the entire trust to determine Claimant's continued eligibility for FAP. (Dept. Ex A, p 14).
5. On June 13, 2014, Claimant's sister informed the Department that per her father's trust attorney, the Department was not entitled to a complete copy of the trust because Claimant was not a beneficiary of the trust. Claimant's sister also wrote that a "Special Needs Trust" would be established for Claimant once their father's estate was liquidated. (Dept. Ex A, p 15).
6. On December 8, 2014, the Department mailed Claimant a Verification Checklist requesting a copy of the trust to determine his eligibility for continued FAP benefits, due by December 16, 2014. (Dept. Ex A, p 19).
7. On December 28, 2014, the Department closed Claimant's FAP beginning February 1, 2015, for failing to return verification of the trust.
8. On April 1, 2014, Claimant filed a hearing request, protesting the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105, p 8 (1/1/2015). Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p 9 (1/1/2015). Clients must take actions within their ability to obtain verifications. BAM 105, p 8 (1/1/2015).

The Department must assist when necessary. BAM 105. The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p 1 (10/1/2014).

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p 1 (10/1/2014).

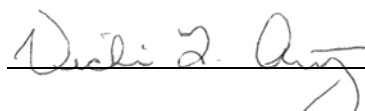
If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. BAM 130, p. 3. If no evidence is available, the Department should use its best judgment. BAM 130, p. 3. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130, p. 5. The Department sends 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. BAM 130, p 6 (10/1/2014).

In this case, both the Department and Claimant have attempted multiple times to obtain a copy of the trust to determine Claimant's eligibility for FAP benefits. Claimant credibly testified his sister would not give him a copy, therefore, he could not provide the Department with a copy. Per Claimant's sister's email, she will not provide the Department with a copy of the trust, on her attorney's advice. Without a copy, the Department is unable to determine Claimant's FAP eligibility based on their best judgment without evidence of the trust.

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 benefits, based on Claimant's sister's failure to provide a copy of the trust.

DECISION AND ORDER

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



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/12/2015**

Date Mailed: **6/12/2015**

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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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

