

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],  
Claimant

Reg. No.: 2010-20777  
Issue No.: 3000/2006/3008  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
June 24, 2010  
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 24, 2010. Claimant appeared and testified; [REDACTED] also appeared and testified on Claimant's behalf. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

1. Whether Claimant timely appealed an expungement of Food Assistance program (FAP) benefits.
2. Whether DHS properly denied Claimant's request for Medical Assistance (MA) benefits due to Claimant's failure to verify assets.
3. Whether DHS properly denied Claimant's request for FAP benefits due to Claimant's failure to attend an interview.

FINDINGS OF FACT

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

1. In 2005, DHS expunged approximately \$500 in FAP benefits that Claimant had saved since approximately 1999.
2. Claimant applied for MA and FAP on 8/25/09.
3. On 12/12/09, DHS mailed Claimant a Verification Checklist (Exhibit 2) requesting verification of Claimant's assets, rent and housing expenses.
4. The Verification Checklist gave Claimant until 12/22/09 to return the requested information.
5. On 12/12/09, DHS mailed Claimant an Appointment Notice (Exhibit 3) for an in-person interview on 12/28/09 regarding Claimant's FAP benefits.
6. Claimant failed to return any of the requested verifications.
7. Claimant failed to attend the 12/28/09 interview.
8. On 12/29/09, DHS denied Claimant's request for FAP benefits due to Claimant's failure to attend the interview and denied Claimant's MA benefits due to Claimant's failure to verify assets.
9. Claimant submitted a hearing request on 1/26/10 regarding: the 2005 expunging of FAP benefits and the 12/29/09 denial of FAP and MA benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp program) is established by 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 of

Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

BAM 600 covers the DHS policy for administrative hearings including deadlines for clients to file hearing requests. Clients have 90 calendar days from the date of the written notice of the DHS case action to request a hearing. BAM 600 at 4.

In the present case, Claimant testified that the expunging of FAP benefits occurred in approximately 2005. Claimant requested a hearing regarding the issue on 1/26/10, at least three years after the expunging of benefits. It is found that Claimant's request concerning expungement of FAP benefits was not filed timely.

Concerning Claimant's MA benefits, DHS indicated Claimant was denied benefits for failing to verify a savings account balance. Claimant testified that he had a savings account but did not bother to return documents because the account balance was zero.

Clients must verify the value of countable assets for MA requests. BEM 400 at 34. Savings accounts are an asset for purposes of MA eligibility. *Id* at 2. An asset is considered "countable" if it meets the availability tests and is not excluded. *Id* at 1.

“Available” means that someone in the asset group has the legal right to use or dispose of the asset. It is not in dispute that Claimant’s savings account was an available asset. Savings accounts are not excluded assets. Claimant’s savings account is found to be available and not excluded. Thus, it is considered a countable asset and one which is required to be verified, even with a zero balance.

A request for program benefits begins with the filing of a DHS-1171 or other acceptable form. BAM 110. If verifications are needed to process the application, DHS is to request them in writing. BAM 130. DHS must give clients at least ten days to submit verifications. *Id.* After the date passes for submission of verifications, DHS is to process the program request for benefits by either evaluating a client’s eligibility or denying the request for failure to verify necessary information. BAM 220.

DHS established that Claimant was mailed a Verification Checklist requesting verification of the savings account. Exhibit 2. The Verification Checklist was dated 12/12/09 and Claimant was given until 12/22/09 to return the verifications. DHS did not deny Claimant’s request for MA until 12/29/09; thus Claimant had seventeen days to return the requested verification. It is found that DHS properly denied Claimant’s MA request due to Claimant’s failure to verify his savings account balances.

Lastly, Claimant disputed the denial of his application for FAP benefits. DHS contends that Claimant’s request was properly denied to Claimant’s failure to attend an interview on 12/28/09.

DHS policy differed significantly between 8/2009, the month of Claimant’s application, and 12/2009, the month that DHS requested an in-person interview from Claimant. The 8/2009 policy states that DHS must conduct an in-person interview before approving FAP benefits.

BEM 115 at 12. The 12/2009 policy (updated effective 10/1/09) directs that specialists must conduct a telephone interview prior to approving benefits. BEM 115 at 12.

Claimant's application date of submission was in 8/2009. The DHS action of requesting the FAP benefits interview occurred in 12/2009. The policy to be followed is appropriately determined by the policy in effect at the time of the DHS action, not the original application date. It is found that DHS should have requested a telephone interview from Claimant as that was the policy requirement at the time DHS requested an interview from Claimant.

DHS testified that when Claimant failed to attend his in-person interview, DHS denied Claimant's FAP benefits. It is not disputed that DHS only attempted to interview Claimant in a face-face manner. It is found that DHS improperly denied Claimant's FAP benefits due to a missed interview because DHS failed to attempt to interview Claimant by telephone.

#### DECISION AND ORDER

Claimant's request for hearing is partially DISMISSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely protest the expunging of FAP benefits.

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's request for MA benefits due to Claimant's failure to verify assets.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's 8/25/09 request for FAP benefits due to the DHS failure to interview Claimant by

telephone. It is ordered that DHS register Claimant's 8/25/09 application for FAP benefits and process it in accordance with its policies.



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Christian Gardocki  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 6/29/2010

Date Mailed: 6/29/2010

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 was made, within 30 days of the receipt date of the rehearing decision.

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