

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: 2010-252
Issue No: 3004, 2018, 4001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 28, 2009
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 held on October 28, 2009. Claimant was present and testified. Michelle Thornburg, ES, appeared on behalf of the department.

ISSUES

1. Did the Department of Human Services (department) properly deny claimant's Food Assistance Program (FAP) application because benefits had not yet terminated in the state he previously resided?
2. Did the department properly deny claimant's Medical Assistance (MA) and State Disability Assistance (SDA) application for insufficient medical evidence?

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 moved to Michigan from Indiana on August 16, 2009.

(2) Claimant applied for FAP, MA, and SDA benefits on August 24, 2009.

(3) On August 25, 2009 the Indiana caseworker informed the department that claimant would receive food assistance from them for September 2009, but they were going to put his case in closure. (Department Exhibit 2, pg. 8, and Hearing Summary)

(4) The department did receive some medical information for claimant. (Department Exhibit 2, pgs. 2-7)

(5) On September 16, 2009, the department denied the FAP application because the benefits for September were received from Indiana and denied the MA and SDA application for insufficient medical evidence.

(6) Claimant filed a hearing request on September 22, 2009 to contest the FAP, MA and SDA determinations.

(7) The department received additional medical evidence on September 22, 2009.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 (DHS or department) 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 Program Reference Manuals.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manuals.

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 (DHS or department) 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 Program Reference Manuals.

FAP

Under BEM 222, a person cannot receive Food Assistance benefits in more than one state for any month. The department is required to make an out-of-state inquiry when an applicant arrived from another state within 30 days before application. Out-of-state benefit receipt or termination may be verified by a DHS-3782, Out-of-State Inquiry, letter or document from other state, or collateral contact with the state. BEM 222.

In the present case, claimant moved from Indiana to Michigan on August 16, 2009 and applied for FAP benefits with the department on August 24, 2009. The department made a collateral contact to Indiana and verified that claimant's food assistance benefits in Indiana had not yet closed. Claimant was going to receive food assistance benefits from Indiana for the month of September 2009.

Department policy addresses a situation where a group might be ineligible for FAP in the month of application but eligible the next month due to anticipated changes in circumstance. In such a case, policy directs the department: (1) to use the same application to deny eligibility for the application month and to determine eligibility for later months, (2) that it is not necessary to interview the group again, but any additional needed verification should be requested and (3) not to deny and reregister the application on the system because opening for the next month disposes of the registration. BAM 115.

However, in claimant's case, he was ineligible both the month of application (August 2009) and the following month (September 2009). Department policy does not indicate that the same application can be used when a claimant may become eligible due to a change in circumstances later than the month following the month of application. Claimant applied in the month of August and was going to receive food assistance from the state of Indiana through September 2009. Accordingly the anticipated change in his circumstances would not have occurred until October 2009. The department therefore would not have been able to open the FAP benefits within the month after the month claimant filed his application under BAM 115.

Based upon the foregoing facts and relevant law, it is found that the department properly denied the FAP portion of the application. If claimant's Indiana benefits have terminated, he should re-apply for current food assistance benefits with the department.

MA and SDA

For the SDA and MA programs, medical evidence will be reviewed by the Medical Review Team (MRT) to determine disability. BEM 260, BEM 261, and BAM 815. A client not eligible for RSDI based on disability or blindness must provide evidence of his disability or blindness. BEM 260. However, BEM 260 also specifies that the department is to do all of the following to make a referral to the MRT/SHRT:

- Obtain evidence of the impairment (e.g., DHS-49, DHS-49-D or equivalent medical evidence/documentation).
- Complete an DHS-49-B, Social Summary.
- Obtain an DHS-49-F, Medical-Social Questionnaire, completed by the client.
- Obtain optional form DHS-49-G, Activities of Daily Living, completed by the client.
- Forward the medical evidence, DHS-49-B, DHS-49-F and DHS-49-G (optional) to the MRT, for claims of disability, or SRT, for claims of blindness

A more detailed outline of the process of obtaining medical evidence can be found in BAM 815.

Under PAM 105, clients must cooperate with the local office in determining initial and ongoing eligibility. The department is to request verification when required by policy, when required by local office option, or when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. PAM 130. The department is to allow at least 10 days to provide the verification requested. PAM 105. For the MA program, a negative action notice is to be sent when the client indicates refusal to provide a verification or the time period given has elapsed. PAM 130. For the SDA program, a negative action notice is to be sent 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. PAM 130. The department must also help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. PAM 130.

In the present case, claimant's MA and SDA benefits were denied for insufficient medical evidence. However, the department has not presented any evidence that any verifications, such as medical documentation, were requested from client. Further, the department's hearing packet does document that some medical evidence regarding claimant was received by the department. Specifically, prescriptions and a discharge summary from [REDACTED], as well as a business card from [REDACTED] (Department Exhibit 2, pgs. 2-7) Claimant also testified he had treating sources in Indiana before his move. The department representative present at the hearing was not the worker who took action on claimant application, however she testified that it did not appear claimant's case was ever sent to the MRT.

Based upon the foregoing facts and relevant law, it is found that the department improperly denied the MA and SDA portions of the application for insufficient medical evidence. The department has presented no evidence that medial documentation was requested

from claimant. Further, the department had some medical evidence and apparently did not have claimant sign a release of information to they could gather additional evidence from the treating sources found in this documentation. The department also did not follow policy in BEM 260, BEM 261 or BAM 815 to refer claimant's case to the MRT for a disability determination. If the caseworker had done so, and additional medical evidence was necessary to make a determination, under BAM 815 the MRT could issue a deferral directing the department to gather any additional records needed or order a consultative examination to obtain additional medical evidence. Accordingly, the department shall reinstate the MA and SDA portions of the August 24, 2009 application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

1) The department properly determined that claimant was not eligible to receive FAP benefits in Michigan in August or September 2009, as he was still receiving food assistance from the state of Indiana for these months.

Accordingly, the department's FAP determination is AFFIRMED.

2) The department did not follow policy in obtaining medical evidence and referring claimant's MA and SDA case to the MRT for a disability determination.

Accordingly the department's MA and SDA determinations are REVERSED. Therefore, the department shall reinstate claimant's August 24, 2009 MA and SDA application.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 5, 2009

Date Mailed: November 5, 2009

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

CL/cv

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