

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201030753
Issue No: 2006; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 22, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on July 22, 2010.

ISSUE

Did the Department properly deny claimant's MA-P and FAP application?

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 applied for MA-P in Macomb County.
- (2) Claimant was mailed a verification checklist on March 10, 2010, requesting medical documentation, as well as several required forms necessary to process a MA-P application.

- (3) A second verification request was sent which required the claimant to provide verifications necessary to a FAP benefit determination, including verification of income and verification of expenses.
- (4) Claimant did not return a DHS-49F.
- (5) Claimant returned other medical documentation, including a DHS-49 and other evidence of impairment.
- (6) Claimant did not return required income verification, but returned verification of some expenses.
- (7) DHS did not forward claimant's information to MRT, and denied claimant's case for failing to return required verifications on March 24, 2010.
- (8) Claimant requested a hearing on March 25, 2010.
- (9) Subsequent to the hearing, claimant sent to the ALJ the documents he had allegedly submitted to the Department; these documents were admitted into the evidence record.

CONCLUSIONS OF LAW

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 Bridges Reference Manual (BRM) and Reference Tables (RFT).

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 Bridges Reference Manual (BRM).

BAM 815 lays out the process of gathering medical information. It should be noted that BAM 815 only requires claimants to complete a DHS-49F and a DHS-1555. Any medical determinations are to be made by MRT. BEM 260.

The Department stated, at hearing, that claimant had submitted insufficient medical evidence and therefore had his application denied. A determination of insufficient medical evidence constitutes a medical determination, which can only be made by MRT. It is not up to claimant's caseworker to make a medical determination; claimant's caseworker is only responsible for gathering medical evidence and forwarding that evidence to MRT. If there is insufficient evidence to make a determination, then MRT can make that ruling.

Per BAM 815, the only document claimant is required to return is the DHS-49F and a DHS-1555. Claimant's caseworker is to have claimant fill out a DHS-1555, and request any other records. The only time a DHS representative may deny a case without forwarding the information to MRT, absent the submission of required forms, is when a claimant fails to submit to a requested medical exam. BEM 260. Furthermore, according to a plain reading of BEM 260, the only forms required to start a MRT determination are a DHS 49-B and F. If there is no evidence of impairment, MRT will

rule accordingly. If MRT wants more evidence, MRT is capable of requesting and gathering that evidence themselves.

What is clear is that under no uncertain terms may claimant's caseworker deny claimant's case for insufficient medical evidence or a failure to return medical evidence without a MRT determination. Such a ruling constitutes a medical determination and would unfairly discriminate against any claimant that had no doctors or medical evidence in the first place.

BAM 815 and BEM 260 expressly lay out a process for a claimant to be sent to exams in order to gather medical evidence when there is a dearth of said evidence; therefore, no reading of those policies can be said to require a claimant to turn in medical evidence, especially when the Department, with a DHS-1555 in hand, can just as easily request the documentation itself.

That being said, there is no evidence that claimant returned a DHS-49F.

Claimant testified that he returned the requested forms to the Department; claimant also submitted the forms that he allegedly returned to the Department. The undersigned found the claimant credible with regard to the returning of the forms; the nature and demeanor of the claimant painted a picture of credibility, and the Administrative Law Judge holds that the claimant returned the verifications as stated to the Department, though it appears the Department never received the documents.

However, in a review of the documents that claimant argued he submitted to the Department, the undersigned notices that there is a distinct lack of a DHS-49F, Medical Social Questionnaire. As stated above, this form is the one form that is absolutely required of a claimant in order to process an MA-P case. Therefore, while claimant may

have turned in several other verifications useful in making a disability determination, there is no evidence that he turned in the one form that absolutely needed to be returned. Thus, as the undersigned, after a review of the evidence, believes that the DHS-49F was not returned, the undersigned has no choice but to hold that the Department properly denied claimant's MA-P application.

With regards to claimant's FAP application, an application or redetermination is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130. If the claimant cannot provide verification despite a reasonable effort, the time limit is to be extended at least one time. BAM 130. Income must be verified. BAM 130.

The undersigned notes that several requested expense verifications are also not in the claimant's provided evidence packet. However, the Administrative Law Judge would not normally hold this to be a fatal error; expenses are not necessary to determine eligibility and no policy states that a claimant must claim expenses to be eligible for a benefit program. However, in order to show eligibility for a benefit program, income must be verified. The verification checklist sent to the claimant requested income verification through the use of check stubs or a letter from a qualified source stating his monthly income.

Claimant appears to have returned, instead, a Form 1099-R. While this form is useful for tax purposes, the undersigned does not see how the previous year's income has any relevance to the claimant's current income. Claimant could still be receiving the income, or may not be receiving any income at all. Tax forms are not listed as an acceptable verification for the type of income claimant was alleging; the undersigned presumes this is because a tax form, especially one from two years earlier than claimant's application date, does not provide useful information as to the claimant's current monthly income.

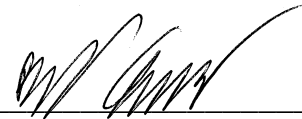
Furthermore, while the time limit is to be extended at least once if the claimant has made a reasonable effort at providing verification, the Administrative Law Judge does not feel the claimant made a reasonable effort. The Department specifically requested check stubs, a verified letter, or the equivalent. Claimant returned a tax record from two years earlier. There is no evidence that claimant inquired as to whether he had submitted the appropriate verifications. At no point did claimant perform any due diligence as to whether his verification would be appropriate. Given the lack of relevance as to claimant's income two years before his current application, the undersigned is not prepared to say that claimant made a reasonable attempt at providing income verifications; therefore, the Department was under no obligation to extend the time limit for providing that verification.

As the claimant had not provided proper income verifications, the Department was unable to determine claimant's income, and as such, was unable to determine eligibility. As the Department was unable to determine eligibility, the policy in BAM 130 states that the proper course of action was to deny claimant's FAP application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct when it denied claimant's MA-P and FAP application for a failure to return required verifications.

Accordingly, the Department's decision in the above stated matter is, hereby, AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/24/10

Date Mailed: 12/02/10

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 receipt date of the rehearing decision.

RJC/dj

cc:

