

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-30506  
Issue Nos: 6015

[REDACTED]

[REDACTED]

Van Buren County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1979 AC, R 400.903. Claimant requested a hearing on April 19, 2011, and, after due notice, one was held on June 15, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly terminated Claimant's Adult Medical Program (AMP) benefits for failure to provide requested verification.

FINDINGS OF FACT

Based on the competent, material, and substantial evidence on the whole record, the Administrative Law Judge finds as relevant fact:

1. Claimant was receiving AMP benefits when his case came due for review. He was mailed a redetermination form, DHS-1010, on February 14, 2011. The form was to be returned to the Department by March 3, 2011. (Department's Exhibits 1-4.)
2. Claimant returned the completed redetermination form to the Department on March 1, 2011. Under the "Assets" section of the form, he noted the existence of a checking account. (Department's Exhibits 3, 4.)
3. On March 21, 2011, the Department mailed Claimant a verification checklist (VCL) form, DHS-3503-C. On this form, the agency requested proof of Claimant's checking account, specifically a copy of his current account

statement. The requested documentation was due March 31, 2011. (Department's Exhibit 6.)

4. It was undisputed that the Department never received the requested checking account verification.
5. On April 8, 2011, the Department issued a notice of case action, DHS-1605, to Claimant informing him that his AMP case was closed, effective May 1, 2011, due to his failure to provide the requested verification. (Department's Exhibits 8, 9.)<sup>1</sup>
6. Claimant subsequently filed a request for hearing to contest the agency's action. (Claimant's hearing request, received April 19, 2011.)
7. On June 1, 2011, the Department mailed a notice of hearing to Claimant, setting the date and time of hearing for June 15, 2011, at 8:30 a.m.

#### CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1979 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1).

An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p 1.<sup>2</sup>

Here, the Department terminated Claimant's AMP benefits. From this determination, he timely filed a request for hearing.

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<sup>1</sup> The Department of Human Services' (the Department's) notice of case action also informed Claimant that he was approved for Food Assistance Program (FAP) benefits in the amount of \$200.00 per month. But, neither Claimant's hearing request nor his testimony at hearing indicated that he was contesting the amount of approved FAP benefits. Therefore, any dispute he might have had regarding those benefits is deemed abandoned and is not addressed in this decision. *Etefia v Credit Technologies, Inc*, 245 Mich App 466, 471; 628 NW2d 577 (2001). See also *Berger v Berger*, 277 Mich App 700, 712; 747 NW2d 336 (2008) (a party abandons a claim when he fails to make a meaningful argument in support of a position).

<sup>2</sup> All policy citations are to Department policy in effect at the time of the agency action in dispute.

The AMP was established under Title XIX of the Social Security Act, specifically 42 USC 1115. The Department administers the AMP under MCL 400.10, *et seq.*, and MCL 400.105. Department policies developed from the above authority are found in the BAM, the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

A client must cooperate with the Department in determining initial and ongoing eligibility for assistance benefits. BAM 105, p 5. The disputed issue in the present matter involved the matter of requested verification regarding an asset held by Claimant.

Verification is defined as "documents or other evidence to establish the accuracy of the client's verbal or written statements." BAM 130, p 1. Verification is usually required at application, redetermination, or for a reported change affecting eligibility or level of benefit. BAM 130, p 1. The Department will instruct a client: (1) what verification is required; (2) how to obtain it, and (3) the due date for submission. BAM 130, p 2. For verification purposes, the agency primarily uses the VCL, Form DHS-3503. BAM 130, p 2-3.

Verification requested by the Department must be obtained by the client, although assistance may be requested from the agency if needed. BAM 130, p 3; see also BAM 105, p 9. The client must take action within his ability to obtain verifications. BAM 105, p 8.

For the AMP program, a client is provided ten calendar days in which to provide requested verification; however, if he cannot provide verification "despite a reasonable effort," an extension will be granted up to three times. BAM 130, p 5. Verifications are considered timely if received by the stated due date. BAM 130, p 5. A client who is able, but demonstrates a refusal to provide requested verifications or take a required action, is subject to penalties. BAM 105, p 5. For example, a negative action notice is issued against the client when he:

- indicates refusal to provide a verification, or
- the time period given for providing the requested verification has elapsed.  
(BAM 130, p 6.)

Assets must be verified at the time of redetermination for AMP benefits. BEM 400, p 35. An asset is cash (including money in savings and checking accounts), any other personal property, and real property. BEM 400, p 1.

Here, as part of the required AMP redetermination process, Claimant informed the Department that he held an asset in the form of a checking account. (Department's Exhibit 3.) Based on this information, the agency requested that Claimant provide verification pertaining to this asset. The due date for submission of proofs was March 31, 2011. (Department's Exhibit 6.) There was no evidence or testimony presented indicating that Claimant asked for any extension of time in which to submit the requested verification. See BAM 130, p 5. Nor did it appear that he asked for any assistance from the agency regarding this verification. See BAM 105, p 9.

The proper addressing and mailing of a letter creates a legal presumption that it was received. *Stacey v Sankovich*, 19 Mich App 688, 694; 173 NW2d 225 (1969). This presumption may be rebutted by evidence, but whether such rebuttal is successful is a question for the fact finder. *Long-Bell Lumber Co v Nynam*, 145 Mich 477; 108 NW 1019 (1906).

Here, the Department provided credible testimony that the VCL, requiring checking account verification by March 31, 2011, was mailed to Claimant at his last known address – this was the same address to which the redetermination form, notice of case action, the hearing summary, and notice of hearing were sent. According to Claimant's testimony, however, of all these documents sent to his mailing address, the *only* one he did not receive in the mail was the VCL requesting verification of his checking account. Claimant stated that this was the sole reason he failed to provide the requested verification.

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). Furthermore, 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).

In the present matter, Claimant offered no credible evidence or testimony rebutting the legal presumption of his receipt of the March 21, 2011, VCL. See *Stacey*, 19 Mich App at 694. He failed to persuasively explain why or how he received all other correspondence sent to him by the Department, except the VCL. Thus, it may be reasonably concluded that Claimant did not cooperate with the agency in providing the requested verification as required under BAM 105 and BAM 400.

#### DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge determines that the Department properly terminated Claimant's AMP benefits based on his failure to comply with the agency's request for verification.

The Department's action is UPHeld.

It is SO ORDERED.

\_\_\_\_\_/s/\_\_\_\_\_  
Mark A. Meyer  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: \_\_6/20/11\_\_\_\_

Date Mailed: \_\_6/20/11\_\_\_\_

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.

Claimant may appeal this Decision and Order to the Circuit Court for the county in which he/she resides within 30 days of the receipt of this Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

MAM/ds

■ [REDACTED]