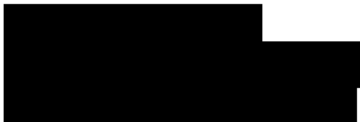


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Registration. No: 2011-35878
Issue Nos: 2006; 3008
Case No: [REDACTED]
Hearing Date: July 13, 2011
Kent 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 June 1, 2011, and, after due notice, one was held on July 13, 2011. Claimant appeared at hearing and provided testimony through an interpreter. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly terminated Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) 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. At all times relevant to this matter, Claimant was receiving both MA and FAP benefits.
2. On March 3, 2011, the Department requested that Claimant submit a completed semi-annual contact report (DHS-1046) regarding her FAP benefits. The report due date was April 30, 2011. (Department's Exhibits D-2.)
3. On April 13, 2011, the Department requested that Claimant submit a completed redetermination form (DHS-1010) regarding her MA benefits. The report due date was May 2, 2011. (Department's Exhibits D-3.)

4. Neither of these documents were returned by Claimant by their respective due dates.
5. On April 10, 2011, the Department informed Claimant that her FAP benefits case would close, effective April 30, 2011, due to her failure to return a completed semi-annual report as requested. (Department's Exhibits D-4).
6. On May 20, 2011, the Department informed Claimant that her MA benefits case would be closed, effective June 1, 2011, due to her failure to return a completed redetermination form. (Department's Exhibits D-5.)
7. Claimant subsequently requested a hearing to contest the agency's actions regarding her MA and FAP benefits. (Claimant's hearing request, received June 1, 2011.)

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.

Here, the Department terminated Claimant's MA and FAP benefits for failure to provide requested information. From this action, Claimant filed a request for hearing.

The MA program was established by Title XIX of the Social Security Act, 42 USC 1396, *et seq.*, and is implemented through federal regulations found in the Code of Federal Regulations, 42 CFR 430, *et seq.* The Department administers the MA program under MCL 400.10, *et seq.*, and MCL 400.105. Department policies developed from this authority are found in the BAM, the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, and is implemented through federal regulations found in 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. Agency policies pertaining to the FAP are found in the BAM, BEM, and RFT. The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230A.

A client must cooperate with the Department in determining initial and ongoing eligibility for assistance benefits. BAM 105, p. 5.

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.

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 or her ability to obtain verifications. BAM 105, p. 8.

For MA, a client is provided ten calendar days in which to provide requested redetermination verification. BAM 210, p. 10. For FAP, redetermination verifications must be provided by the end of the current benefit period or within ten days after they are requested, whichever allows more time. BAM 210, p. 11.

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 or she:

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

In light of these policies, a complete semi-annual contact report (DHS-1046) must be submitted by a FAP group with countable earnings and a twelve-month benefit period. The DHS-1046 may be completed by the client or the client's authorized representative. However, the form must be signed by the client or authorized representative. A report is considered complete when all of the sections on the DHS-1046 (including the signature section) are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, pp. 6-7.

Regarding the DHS-1010 redetermination for MA benefits, verifications are due the same date as the redetermination/review interview. When an interview is not required, as in the present matter, verifications are due the date the redetermination packet is due. BAM 210, p 10.

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).

Here, the Department provided credible testimony that it never received a completed DHS-1046, nor a completed DHS-1010, from Claimant by the established due dates. Claimant testified, however, that she timely submitted the requested documents by placing them in the local Department drop box, but that the documents were "returned to her in the mail." (Claimant's hearing testimony, July 13, 2011.) In response to this testimony, the Department's representative testified that material received by the Department is placed in a client's file and not returned by mail.

Based on the entirety of testimony and other evidence presented, it cannot be reasonably concluded that Claimant timely submitted a completed DHS-1046 or DHS-1010. The agency's actions in this matter were therefore appropriate. Claimant is encouraged to reapply for benefits, and to timely and adequately adhere to the Department's requests for information.

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 MA and FAP benefits based on her failure to adequately comply with the agency's request for submission of appropriate reports and accompanying verification.

Therefore, the Department's action in this matter is UPHeld.

It is SO ORDERED.

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

Date Signed: _____

Date Mailed: _____

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/sc

cc:

