

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-38325
Issue Nos: 2006; 3008
Case No: [REDACTED]
Hearing Date: July 21, 2011
Genesee 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 1999 AC, R 400.903. Claimant requested a hearing on May 23, 2011, and, after due notice, one was held on July 21, 2011. Claimant and her father 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 denied Claimant's Medical Assistance (MA) application and closed her Food Assistance Program (FAP) benefits case, 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. On April 14, 2011 Claimant applied for MA; at that time, she was receiving FAP benefits.
2. On the application for MA, Claimant reported that she was self-employed with a gross monthly income of [REDACTED] and [REDACTED] per month in related expenses. Claimant also reported that she received rental income of [REDACTED] per month. She reported no employment income. (Department's Exhibit D-1.)
3. In processing Claimant's MA application, the Department discovered that she was, in fact, also receiving employment income. (Department's Exhibit, D-2; Department's hearing summary.)

4. On May 5, 2011, the Department mailed Claimant a verification checklist (DHS- 3503), requesting information regarding her employment income, her self-employment income, and her rental income. The due date for returning the verifications was May 16, 2011. (Department's Exhibit D-4.)
5. On the same date, the agency mailed Claimant a verification of employment form (DHS-38), asking for income information for the period March 1, 2011, through May 31, 2011. This information was also to be provided by May 16, 2011. (Department's Exhibit D-3.)
6. On May 19, 2011, the Department issued a notice of case action to Claimant, informing her that her MA application was denied and that her FAP case was closed, effective June 1, 2011. The basis for the agency's action was that she failed to timely provide the requested verifications regarding her employment income, her self-employment income, and her rental income. (Department's Exhibit D-5.)
7. Claimant subsequently requested a hearing to contest the agency's action. (Claimant's hearing request, received May 23, 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 denied Claimant's application for MA and closed her FAP benefits case, where it was determined she failed to provide requested verifications regarding income sources. From this determination, she 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. The disputed issue here involved the matter of requested verification regarding Claimant's employment income, self-employment income, and rental income.

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

For MA, a client is provided ten calendar days in which to provide requested verification. BAM 210, p. 10. For FAP, 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 the present matter, the Department requested verification regarding Claimant's employment income, self-employment income, and rental income. Such information is necessary to determine eligibility for both the MA program and the FAP. According to testimony provided by the Department's representative at hearing, Claimant failed to submit the requested verification. Claimant, on the other hand, testified that she faxed the information to the Department on May 10, 2011, and dropped off the information at the local Department office on May 11, 2011. Claimant stated, however, that she kept no transmission receipt regarding the faxing of her information.

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, Claimant's credibility is lacking. First, a person going to the time and expense of faxing a document as important as those here may reasonably be expected to retain a copy of the fax transmittal page. At the very least, this page would indicate that a fax had, in fact, been sent to a specific fax number at a specific time and date. Second, Claimant testified that she dropped off the requested verifications on May 11, 2011. The Department provided evidence that logs are kept by the local agency office that indicate when a client drops off material for review. However, there was no indication in the logs from May 10, 2011, through May 13, 2011, that Claimant dropped off anything at the local office.

Based on the entirety of the testimony and other evidence presented, it cannot be reasonably concluded that Claimant timely submitted the requested verifications regarding her employment income, self-employment income, or rental income. The agency's action in this matter was 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 denied Claimant's MA application and closed her FAP benefits case due to her failure to timely and adequately comply with the agency's request for verification.

The Department's action in this matter is UPHELD.

It is SO ORDERED.

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

Date Signed: 8/9/11

Date Mailed: 8/9/11

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.

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