

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

IN THE MATTER OF:



Reg. No: 201147140
Issue No: 3015, 3008
Case No: [REDACTED]
Hearing Date: September 1, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 1, 2011. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined the claimant's eligibility for the Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant applied for Food Assistance Program (FAP), Medical Assistance (MA), and Family Independence Program (FIP) benefits on June 21, 2011. (Department Exhibits 4-21).
2. On June 21, 2011, the claimant was mailed a verification checklist (DHS 3503) requesting verification of income and expenses. (Department Exhibits 22-23).
3. The claimant submitted verification to the department by the due date of July 1, 2011, but further verification was requested of the claimant.
4. The claimant was sent a notice of case action (DHS 1605) on July 20, 2011 stating that her FAP application was being denied because the claimant was over the allowable income limit and because the claimant failed to return the requested verifications. (Department Exhibits 41-45).

5. On August 2, 2011, the claimant submitted a hearing request protesting the denial of her FAP application.

CONCLUSIONS OF LAW

As a preliminary matter, the claimant indicated in her hearing request that she was requesting a hearing regarding the case overall, which would include her FIP and MA portion of her application. MAC 400.903 lays out instances where recipients of assistance have a right to an administrative hearing within the Michigan DHS. This rule specifies when an opportunity for a hearing shall be granted:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC 400.903(1).

At the time of the claimant's hearing request, the department had not taken any action to suspend, reduce, discontinue or terminate the claimant's MA or FIP benefits. The claimant had been approved for said benefits through her application. Therefore, under the administrative rule discussed above, claimant does not have a right to a hearing regarding the MA and FIP benefits and thus, this Administrative Law Judge has no jurisdiction on that matter.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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).

In relation to a claimant's responsibilities in obtaining the verifications needed for the department to make a determination, policy states as follows:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM 105.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see "Timeliness Standards" in this item). Use the DHS-3503, Verification Checklist, or for MA

redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment. BAM 130.

Timeliness Standards

FIP, SDA, CDC, FAP

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. BAM 130.

Exception: For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice 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. BAM 130.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

In the case at hand, the department denied the claimant's FAP application due to a lack of verification and due to excess income. At the hearing, the claimant testified that she had submitted the required verifications. Although this Administrative Law Judge credits the claimant's testimony, it is not necessary to make a determination based on the verification question as the claimant was in fact over the allowable income limit.

At the hearing, the claimant testified that she felt that the amount the department used as her group's monthly income was probably accurate. Furthermore, the department used figures provided by the claimant through her submitted verifications.

A claimant with a group size of 4 has a maximum gross income limit of \$2,389.00. RFT 250. Because the claimant's gross income of \$3,772.00 exceeded the allowable 130% gross income limit of \$3,105.70, the claimant is not entitled to FAP benefits for the time period in question.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's FAP eligibility.

Accordingly, the department's actions are **AFFIRMED**. It is SO ORDERED.

_____/s/_____
Christopher S. Saunders
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 16, 2011

Date Mailed: September 19, 2011

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

CSS/cr

cc:

