

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

IN THE MATTER OF:




Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "Claimant") request for a hearing received on August 17, 2011. After due notice, a telephone hearing was held on September 28, 2011. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly closed Claimant's Food Assistance Program (FAP), Medical Assistance (MA) and Child Development and Care (CDC) benefits for failure to timely return the required verifications?

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 was receiving FAP, MA and CDC at all times pertinent to this hearing.
2. On June 10, 2011, the department mailed Claimant a Wage Match Notice (DHS-4638) along with a Verification of Employment form (DHS-4638) to be completed by Claimant's employer no later than July 11, 2011. (Wage Match and Verification of Employment).
3. Claimant forwarded the DHS-4638 to her employers.
4. On August 5, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605), informing her that her FAP, MA and CDC benefits would close, effective September 1, 2011, for failure to return verifications.¹ (Notice of Case Action).

¹ The deadline for Claimant to request that her benefits be continued pending the hearing was August 16, 2011.

5. On August 16, 2011, Claimant submitted a hearing request via facsimile challenging the closure of her FAP benefits.² (Request for a Hearing).

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Child Development and Care (CDC) program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The MA program is also referred to as Medicaid. BEM 105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. BEM 105. Another category is SSI recipients. BEM 105. There are several other categories for persons not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

² Claimant requested that her FAP, MA and CDC benefits be continued pending the outcome of the hearing in this matter but the Department's hearing summary indicates that Claimant did not request continuation of benefits. The hearing summary notes that the DHS received Claimant's request on August 16, 2011.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130. For FAP, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. BAM 130.

Clients must take actions **within their ability** to obtain verifications and DHS staff must assist when necessary. BAM 105. Specifically, the local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105 and BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

In the instant case, Claimant is disputing the department's termination of her FAP, MA and CDC benefits for failure to provide Verification of Employment (DHS-4638) that was required to be filled out by her employer. Claimant testified that she forwarded the DHS-4638 forms to her employers. When the employers did not complete and return the DHS-4638 forms, the department closed Claimant's FAP, MA and CDC benefits. Here, Claimant did everything she could to see that the Department was provided with the verifications, but the employers did not act timely. Because Claimant relied upon a third party to provide the verifications, it was not within Claimant's ability to obtain the requested verifications. There is no evidence that the Claimant refused to cooperate, rather, she was unable to cooperate.

Therefore, this Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department did not properly close Claimant's FAP, MA and CDC benefits for failure to timely return the verification forms.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed Claimant's FAP, MA and CDC benefits because her employers failed to return the requested verifications.

Accordingly, the department's actions are REVERSED. The department is hereby ordered to do all of the following:

- Reinstatement of Claimant's FAP, MA and CDC benefits.
- Issue retroactive FAP, MA and CDC benefits back to the date of closure (September 1, 2011).
- Redetermine Claimant's FAP, MA and CDC benefits including verification of Claimant's income.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/11/11

Date Mailed: 10/11/11

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 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.

CAP/ds

