

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No:

201111420



ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on February 23, 2011. The Claimant was present and testified.

ISSUE

1. Did the Department properly terminate Claimant's Food Assistance Program (FAP) case based on a failure to return verification documents?
2. Did the Department properly terminate Claimant's Medical Assistance (MA) case based on a failure to return verification documents?

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 and her husband were referred to the Jobs, Education and Training (JET).
2. They were sent a Notice of Appointment for July 22, 2010 and August 5, 2010. (Department Exhibit pg 1; 3 and 22).
3. On November 1, 2010, they were sent a DHS 2444 Notice of Non-Compliance for their failure to participate in JET. (Department Exhibit pg 5).
4. As a result of the Non-compliance for JET, a sanction was imposed for the FAP program. (Department Exhibit pg 5-6).

5. The FAP sanction resulted in a new budget for FAP eligibility. (Department Exhibit pg 12-14).
6. On July 28, 2010, the Claimant was sent a DHS 3503 Verification Checklist requesting verification of her husband's income. The Verification specifically stated that he "needed to verify income for BAJA and Corner Landing. If you are no longer working at BAJA you still needs to have them complete the form to verify that you job stop". (Department Exhibit pg 23-24).
7. On October 29, 2010, the Claimant was sent a second DHS 3503 Verification Checklist again requesting verification of employment. (Department Exhibit pg 27).
8. On November 19, 2010, the Claimant was sent a Notice of Case Action closing her FAP and MA benefits for failure to provide verification of employment. (Department Exhibit pg 15-21).
9. On November 23, 2010, Claimant requested a hearing. Although the Claimant did not list any programs on her hearing request, she stated at the hearing she was only contesting the FAP and MA closure. She stated that she did not have any issue with the FIP closure.

CONCLUSIONS OF LAW

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 - .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). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

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

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The

Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) and the Bridges Reference Manual (BRM). Department policy states:

BAM 105 Department Policy

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

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, Item 105, p. 8.

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, Item 105, p. 9.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

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, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

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, Item 130, p. 4.

BAM 130 DEPARTMENT POLICY

All Type of Assistance (TOA)

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information.

Verification is **not** required:

- When the client is clearly ineligible, or
- For excluded income and assets **unless** needed to establish the exclusion.

Types of Verification

All TOA

Use documents, collateral contacts or home calls to verify information.

A **document** is a written form of verification. It may include a photocopy, facsimile or email copy if the source is identifiable. Permanent documents must be obtained only once, unless they are found to be missing from the case record

In this case, the Claimant is disputing the closure of her FAP and MA case for failure to submit the required proof of income. Income is required to determine eligibility and the amount of the benefit.

Claimants are required to comply with the local office to allow the Department to determine initial or ongoing eligibility. BAM 105. The Department informs the client what verification is required, how to obtain it, and the due date by using the Verification Checklist form (DHS-3503). BAM 130. Clients are provided ten days to return the verifications, but can request an extension of time to provide the verifications. BAM 130. If the time period to provide the verifications elapses and the verifications have not been provided, the department is directed to send a negative action notice. BAM 130.

The Claimant admits that she received the Verification checklist. She states that her husband provided the Department with some of the information. She states that they were unable to get verification from BAJA regarding her husband's employment. She indicates that they left messages with the company but got no response. She states that they did not request assistance from the Department to obtain the verifications. She states that she does not remember if they requested assistance from the Department to obtain the verifications. The caseworker testified credibly that the Claimant's husband stated that he no longer worked at BAJA. She states that he never requested any assistance with verification. She testified that she sent the Claimant 2 notices requesting the information and specifically stated that if they needed assistance to call

her. The Verification documents are needed to determine FAP and MA eligibility. BEM 400.

The Claimant is required to comply with the Department in providing the verification materials necessary to allow the Department to determine initial or ongoing eligibility. BAM 105. In this case, the Claimant failed to provide the Department with the verification documents necessary to determine eligibility. Department policy indicates that failure to provide proof eligibility will result in penalties. BAM 105, 130. In this case, the Department could not determine the Claimant's eligibility for the FAP program or the MA program and closed the Claimant's cases properly.

