

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-31975
Issue Nos: 2006; 3008

[REDACTED]

Berrien 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 May 2, 2011, and, after due notice, one was held on June 8, 2011. Claimant 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 application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits, based on a determination that he failed to provide adequate 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. Claimant filed an application for MA, FAP, and State Disability Assistance (SDA) benefits with the Department on March 28, 2011 (Department's Exhibit 1, p 1-20.).
2. The agency denied Claimant's request for SDA on March 30, 2011, based on a determination that he had excess income for the program requirements. (Department's hearing summary, dated May 11, 2011.)
3. A verification checklist (VCL), DHS Form 3503-C, was sent to Claimant on March 30, 2011, requesting proofs regarding his checking account, shelter expense,

and pension. The VCL pertained only to Claimant's eligibility for MA and FAP. (Department's Exhibit 3, pp 1-2.)

4. Claimant's verification proofs were due by April 11, 2011. (Department's Exhibit 3, p 1.)
5. On April 18, 2011, the Department received from Claimant documents relating to his shelter expense, utility expense, and car repair. The agency did not receive any proofs pertaining to Claimant's checking account or pension by the April 11, 2011, due date.
6. The Department mailed a notice of case action, DHS Form 1065, to Claimant on April 26, 2011, informing him that his application for MA and FAP benefits was denied for failure "to verify necessary information." (Department's Exhibit 4, pp 1-2.)
7. Claimant subsequently filed a request for hearing to contest the agency's action. (Claimant's hearing request, received May 2, 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 1.¹

Here, the Department denied Claimant's application for MA and FAP benefits. From this determination, he 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 (CFR), 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 the above authority are found in the BAM, the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

¹ All policy citations are to Department of Human Services (Department) policy in effect at the time of the agency action in issue.

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 Reference Tables Manual (RFT).

The issue in dispute in the present matter involves the matter of verification.

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 initial applications pertaining to MA and FAP, the agency uses the VCL, Form DHS-3503. BAM 130, p 2-3. All non-excluded income must be verified at the time of application for both MA and FAP benefits. BEM 500, p 9. Moreover, verification of the value of countable assets at application is required for MA benefits. BEM 400, p 35.

Importantly, a client must cooperate with the Department in determining initial and ongoing eligibility for assistance benefits. BAM 105, p 5. 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 ability to obtain verifications. BAM 105, p 8.

For FAP, a client is provided ten calendar days in which to provide requested verification. BAM 130, p 5. For the MA program, a client is also provided ten calendar days; however, if he cannot provide verification "despite a reasonable effort," an extension will be granted up to three times. BAM 130, p 5. Verifications are considered timely if received by the stated due date. BAM 130, p 5. 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:

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

Here, the Department requested that Claimant provide verification pertaining to his checking account, shelter expenses, and pension. The due date for submission of proofs was April 11, 2011. (Department's Exhibit 3, pp 1-2.) The agency asserted that Claimant "was given an extension of 10 days per [his] request" to submit the requested verifications regarding his application for MA and FAP benefits. (Department's hearing summary, dated May 11, 2011.) The Department failed, however, to provide credible evidence that any extension was granted in this matter. In fact, Claimant adamantly testified that he never requested an extension of time to submit verifications because "I turned in everything [the Department asked for]." (Claimant's hearing testimony.) From the whole record, it is reasonable to conclude that Claimant did not request, nor was he

provided, a ten-day extension in this matter. Thus, all requested verification was due on April 11, 2011. (See Department's Exhibit 3.)

Testimony provided by the Department representative at hearing did credibly indicate that the agency received documentation from Claimant regarding his shelter expense, utility costs, and a car repair bill on April 18, 2011. This information was thus received a week past the verification due date, and did not include the requested proofs regarding Claimant's checking account or pension.

Claimant first testified that he hand-delivered all requested proofs to the local Department office on or before April 11, 2011. But, when questioned, he was unable to recall the date on which this information was actually submitted – "sometime in April." (Claimant's hearing testimony.) Later in the hearing, Claimant stated that he placed all requested verification in the local office's drop box. According to Claimant, "I read all this stuff [from the Department] real good." (Claimant's hearing testimony.) But, he pointedly raised the issue of an in-person hearing, testifying that he was completely unaware of the ability to ask for one prior to the present hearing. Reasonable notice may be taken that Claimant received the Department's notice of hearing because he appeared on the date and time scheduled. That notice plainly stated the following: "IN PERSON HEARING OPTION: If your hearing has been scheduled as a telephone hearing but you want to be face-to-face with the Administrative Law Judge, notify Administrative Hearings immediately[.]" (Notice of hearing, dated May 23, 2011.)

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). Moreover, 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).

Here, Claimant's testimony failed to credibly establish that he provided the Department with *all* requested verification by the April 11, 2011, due date. See BAM 130, p 5.

Moreover, in disputing the Department's action in this matter, Claimant offered a document received from Lakeland HealthCare. This letter, dated May 24, 2011, provided in relevant part:

Lakeland Hospital uses several resources including the Federal Poverty Guidelines to indicate a patient's ability to pay their healthcare expenses. As a result, it has been determined that you would benefit from Lakeland's Charity Care Program.

100% of the above listed account [\$110.00] has been approved for Charity Care.

The balance on this account is no longer due from you and is considered as paid in full. [Claimant's Exhibit 1.]

According to Claimant, this letter, by itself, established that he was eligible for MA and FAP benefits. His claim is without merit. Claimant failed to offer any authority or testimony supporting the proposition that Lakeland Hospital's criteria for financial assistance were the same or similar to those used by the Department in determining an applicant's eligibility for MA and FAP benefits. A party may not merely make an assertion, or give an issue cursory treatment, and then leave it to the fact-finder to search for authority in support of that position. See, e.g., *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998); *Peterson Novelties, Inc v Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003).

Claimant also offered into evidence a copy of the first page of his checking account statement; this document was for the period April 14, 2011, through May 12, 2011. Even if it could be considered at this point, this document failed, however, to provide adequate verification. First, this bank statement would not have been received until well after the April 11, 2011, verification deadline. Second, while it provided a snapshot of Claimant's checking account balance as of May 12, 2011, it offered no information regarding his pension – income and asset information that he was specifically requested to provide to the Department by April 11, 2011.

Finally, it is noted that Claimant also applied for SDA – basically cash assistance benefits – at the same time he applied for MA and FAP benefits. According to the Department, and based on information provided by Claimant at the time of application, he was not eligible for SDA due to having excess income for that program. According to the Department, a notice of action regarding the denial of SDA only was sent to Claimant on March 30, 2011. Whether that notice was actually issued is of no import here.

The notice of action in issue, however, pertained only to the agency's denial of MA and FAP benefits, based on its determination that Claimant failed to provide requested verification regarding just these two programs. Although Claimant's request for hearing failed to state with any specificity what he was contesting, it was clear at hearing that his only dispute in this matter involved the verification issue. His sole argument regarding the merits was the following: "[They] say I didn't turn in paperwork. I turned in everything they requested." (Claimant's testimony at hearing.) Claimant offered no argument pertaining to the Department's denial of SDA; in fact, when asked what exactly he was contesting, Claimant stated it was the determination that "I didn't turn in any paperwork." Therefore, any dispute he might have had regarding the denial of SDA based on excess income is deemed abandoned and is not addressed in this decision. *Etefia v Credit Technologies, Inc*, 245 Mich App 466, 471; 628 NW2d 577 (2001). See also *Berger v Berger*, 277 Mich App 700, 712; 747 NW2d 336 (2008) (a party abandons a claim when he fails to make a meaningful argument in support of a position).

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 application for MA and FAP benefits based on his failure to comply with the agency's request for verification.

The Department's action is UPHELD.

It is SO ORDERED.

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

Date Signed: 6/13/11

Date Mailed: 6/13/11

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 mailing 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.

[REDACTED]