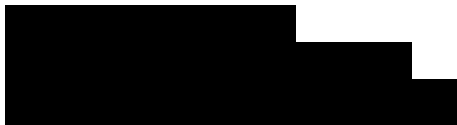



STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201136249
Issue No: 3015, 4013, 2006
Case No: 
Hearing Date: August 16, 2011
Macomb 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 Claimant's request for a hearing. After due notice, a telephone hearing was held on August 16, 2011. Claimant personally appeared and provided testimony.

ISSUES

1. Whether the department properly determined that the claimant was not eligible for Food Assistance Program (FAP) and State Disability Assistance (SDA) benefits due to excess income?
2. Whether the department properly denied the claimant's Medical Assistance (MA) application for failure to submit 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. The claimant submitted an application for FAP, SDA, and MA benefits on April 4, 2011.
2. The claimant's FAP and SDA applications were denied on April 21, 2011 due to excess income. (Department Exhibit 1).
3. The claimant was sent a medical determination verification checklist (DHS 3503) for her MA application on April 21, 2011 with a due date of May 2, 2011. (Department Exhibit 2).
4. The claimant did not submit the medical verifications by May 2, 2011 and was subsequently sent a notice of case action on May 3, 2011 informing the claimant

that her MA application was denied for failure to return the requested verifications. (Department Exhibit 3).

5. The claimant filed a hearing request on May 9, 2011.

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 400.901-400.951. 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).

For FAP purposes, all earned and unearned income available to the 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 claimant was not able to definitively state that the amount of income used by the department in determining her eligibility for FAP and SDA benefits was wrong. She testified that she thought the amount used by the department could be accurate but she was not sure. The claimant was not able to provide any figures that would otherwise contradict the figures used by the department, nor could she say with

any certainty that the income figures actually used were not accurate. Therefore, this Administrative Law Judge finds that the department used the proper amount of income for the claimant in determining her eligibility for FAP and SDA benefits.

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260.

The claimant has a group size of three. A claimant with a group size of 3 has a maximum net income limit of \$1,526.00. RFT 250. Because the claimant's net income of [REDACTED] exceeded the allowable 100% net income limit of \$1,526.00, the claimant is not entitled to FAP benefits for the time period in question.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

State Disability Assistance (SDA) is a cash program for individuals who are not eligible for the Family Independence Program (FIP) and are disabled or the caretaker of a disabled person. An SDA eligibility determination group (EDG) consists of either a single adult or adult and spouses living together. BEM 214.

The eligibility determination group (EDG) means those adults living together whose information is needed to determine SDA Eligibility. Only an adult individual and his or her spouse who live together are included in an SDA eligibility determination group (EDG). The certified group (CG) means those persons in the EDG who meet all non-financial SDA eligibility factors. Countable income and assets of certified group (CG) members are always considered in determining SDA eligibility. BEM 214.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Countable income is the income remaining after applying the deductions in accord with department policy to the income related items. This is the amount used to determine eligibility and benefit levels. All income is counted unless specifically excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is all income that is not earned. Gross income is the amount of income before any deductions such as taxes or garnishments. This amount may be more than the actual amount an individual receives.

To be eligible for State Disability Assistance (SDA), the certified group must be in financial need to receive benefits. Need is determined to exist when budgetable income is less than the payment standard established by the department. The specific

program, living arrangement, grantee status and certified group size are variables that affect the payment standard. BEM 214.

The payment standard lists the maximum benefit amount that can be received by the certified group. The State Disability Assistance (SDA) benefit is for shelter, heat, utilities, clothing, food and items for personal care. Income is subtracted from the payment standard to determine the grant amount. BEM 518.

As stated above, the claimant was not able to state with any certainty that the income used by the department was not accurate and could also not provide any alternate figures for income. The claimant is listed as having unearned income of [REDACTED] at the time of application from alimony and child support arrearages. A claimant with a group size of one has a maximum net income limit of [REDACTED], under the SDA program. RFT 225. The Administrative Law Judge finds that because the claimant's net unearned income of [REDACTED] exceeded the allowable income limit of [REDACTED], the department properly denied the claimant's application for SDA due to excess income.

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) and the Bridges Reference Manual (BRM).

When a claimant applies for SDA or MA, policy dictates that the claimant is responsible for providing the evidence needed to establish disability or blindness. BEM 260. The department is also required to assist the claimant when needed in obtaining such information including scheduling medical exam appointments and paying for medical evidence and medical transportation. BEM 260.

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.

In the case at hand, the claimant admitted that she did not return the requested verifications to the department. The department representative testified that when the claimant received the verification checklist, she called the department and stated that she did not understand the forms. The department subsequently set an appointment for the claimant to come in and have the forms explained to her. The claimant attended the appointment and had a translator present at said appointment. Even after the claimant was explained the requested verifications with a translator present, she did not return the requested verifications, the department therefore properly denied the claimant's MA application for failure to return the requested medical verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

1. The department acted in accordance with policy in denying the claimant's FAP and SDA applications as a result of having income that exceeded the amount allowable for eligibility.
2. The department properly denied the claimant's MA application for failure to return the requested verifications.

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: August 29, 2011

Date Mailed: August 30, 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:

