

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

IN THE MATTER OF:



Reg. No: 2011-48913  
Issue No: 3015, 3014, 2006  
Case No: [REDACTED]  
Hearing Date: September 21, 2011  
Genesee 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 21, 2011. The claimant personally appeared and provided testimony.

**ISSUE**

1. Whether the department properly excluded the claimant from the Food Assistance Program (FAP) group due to student status and in turn whether the department properly determined the group was ineligible for FAP benefits due to excess income?
2. Whether the department properly closed the claimant's Medical Assistance (MA) case due to 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 was a recipient of FAP and MA benefits.
2. On June 14, 2011, the claimant was sent a redetermination packet for her FAP and MA benefits and a redetermination interview was scheduled for July 5, 2011. (Department Exhibits 1-4).
3. The claimant completed the redetermination packet and attended the interview.
4. The claimant stated that she was a part-time student at community college and that she was not working. (Department Exhibit 2).

5. The claimant supplied verification of her husband's wages through pay checks and a letter from an employer. (Department Exhibits 5-10).
6. The claimant was sent a notice of case action (DHS 1605) on July 13, 2011 stating that her FAP case would be closing as of August 1, 2011 due to excess income. (Department Exhibits 11-14).
7. The claimant was sent a verification checklist regarding her MA benefits on July 13, 2011 asking for verification of a checking account to be returned by July 25, 2011. (Department Exhibit 18).
8. The claimant was sent a notice of case action (DHS 1605) on July 27, 2011 stating that her MA case would be closing as of September 1, 2011 due to her failure to provide the requested verifications. (Department Exhibits 19-20).
5. The claimant submitted a hearing request August 9, 2011 protesting both of the above-mentioned actions.

### **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).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. 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. Medicaid is also known as Medical Assistance (MA).

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 claimant was excluded from her group due to her status as a student. In order for an individual in student status to be eligible for FAP, they must meet certain conditions. In relation to student status and the FAP program, policy states as follows:

## **STUDENT STATUS**

### **FAP Only**

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
  - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
  - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
  - A JTPA program.
  - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
  - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year.

To qualify under this provision the student must be approved for work study during the school term and anticipate actually working during that time. The exemption:

- Starts the month the school term begins or the month work study is approved, whichever is later.
- Continues until the end of the month in which the school term ends, or when you become aware that the student has refused a work-study assignment.
- Remains between terms or semesters when the break is less than a full month, or the student is still participating in work study during the break.
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
  - Enable the person to attend class and work at least 20 hours per week.
  - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does **not** live with his or her natural, adoptive or stepparent.

For the care of a child under age six, consider the student to be providing physical care as long as he or she claims primary responsibility for such care, even though another adult may be in the FAP group. When determining the availability of adequate child care for a child six through 11, another person in the home, over 18, need not be a FAP group member to provide care. The person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term). BEM 245.

At the hearing, the claimant testified that she was taking classes at community college part time (6 credit hours per semester) and she was not working. Therefore, she was properly determined to be in student status and did not meet any of the eligibility criteria. Because the claimant was in student status, she was properly excluded from the group for purposes of determining FAP eligibility. The department used income amounts provided by the claimant to determine her husband's income, and multiplied the average of those amounts by 4.3, as is required by policy in BEM 505.

A claimant with a group size of 3 has a maximum gross income limit of [REDACTED]. RFT 250. Because the claimant's gross income of [REDACTED] exceeded the allowable 130% gross income limit, the claimant is not entitled to FAP benefits for the time period in question.

In relation to the MA disqualification, the claimant was not able to supply any evidence that the requested verifications were returned to the department by the due date. Because there is not evidence indicating that the requested verifications were submitted on time, the department acted properly in terminating the claimant's MA case due to a failure to submit the requested verifications.

**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 closing the claimant's FAP and MA cases.

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 30, 2011

Date Mailed: October 3, 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:

