

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201212045
Issue No: 3008
Case No: [REDACTED]
Hearing Date:
December 13, 2011
Macomb County DHS (12)

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 December 13, 2011. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly terminated the claimant's Food Assistance Program (FAP) case for failure to cooperate with the required redetermination process?

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 Food Assistance Program (FAP) benefits. (Department Hearing Summary).
2. The claimant's FAP case was due for a review in October 2011. (Department Hearing Summary).
3. As part of the review, the claimant was asked to verify sources of income. (Department Hearing Summary).
4. At the time of the review, the department showed that the claimant had rental income in the amount of \$200.00.
5. The claimant was sent a verification checklist (DHS 3503) on September 12, 2011 with a due date of September 22, 2011 asking for verification of

“in-home rental” and indicating that a copy of a lease or rental agreement would be sufficient verification. (Department Exhibit 2).

6. On September 26, 2011, the department sent the claimant a notice of case action (DHS 1605) stating that her FAP benefits would be closing as of October 1, 2011 due to her failure to allow the department to verify necessary information. (Department Exhibit 3).
7. The claimant filed a request for hearing verbally on October 20, 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. 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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 testified that she was never receiving income from rent. She testified that she rents herself and was unaware that the department was attributing the \$200.00 per month to her for rental income. She stated that when she received the verification checklist she thought that “in-home rental” meant the home that she was renting. She further testified that she contacted the department and stated that her verifications would be late because she just moved and she did not have a copy of her current lease. The department representative testified that she did have a conversation with the claimant and that the claimant was sent a shelter verification form subsequent to said conversation. The department representative was not able to show where the information regarding the rental income came from or why it was originally entered into the system.

This Administrative Law Judge credits the claimant’s testimony with respect to her conversation with the department and with her confusion regarding the requested verifications. The claimant did everything she thought was appropriate given her interpretation of what was being requested. Additionally, the department was not able to indicate where the alleged income initially came from and why it was added to the claimant’s countable income. Therefore, there is a question as to whether or not verifications regarding this alleged income were appropriate. Regardless, this Administrative Law Judge finds that given the nature of the requested verification and the claimant’s reaction thereto, that the claimant took appropriate measures and

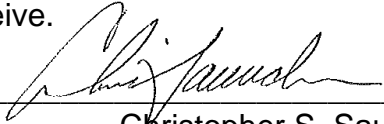
responded to the request for verification. Therefore, this Administrative Law Judge does not find that the claimant failed to cooperate in her review process.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed the claimant's FAP case.

Accordingly, the department's actions are REVERSED.

It is HEREBY ORDERED that if the claimant is otherwise eligible, the department shall reinstate the claimant's FAP benefits and if applicable, issue any past due benefits due and owing that the claimant is otherwise eligible to receive.



Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 12/21/11

Date Mailed: 12/21/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

2012-12045/CSS

Request must be submitted through the local DHS office or directly to MAHS by mail to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CSS/ hw

cc:

