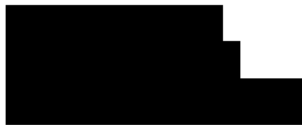


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201252902
Issue No: 3008, 2013
Case No: [REDACTED]
Hearing Date: June 19, 2012
Oakland 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 June 19, 2012. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly close the claimant's case Food Assistance Program (FAP) benefits for failure to return the requested verifications?
2. Did the department properly close the claimant's Medical Assistance (MA) case due to excess income?

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 April 27, 2012, the claimant was sent a verification checklist (DHS 3503) requesting verification of her daughter's employment to be submitted by May 7, 2012. (Department Exhibit 4).
3. The department did not receive the verifications requested.
4. On May 8, 2012, the department sent the claimant a notice of case action (DHS 1605) stating that her FAP case would be closed as of June 1, 2012 due to her failure to submit the requested verifications. (Department Exhibit 5).

5. On April 27, 2012, the department sent the claimant a notice of case action (DHS 1605) stating that her MA benefits (specifically her Medicare cost share SLMB) would be closed as of June 1, 2012 due to excess income. (Department Exhibit 10).
6. The claimant filed a request for hearing on May 15, 2012, protesting the closure of her FAP and MA cases.

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. 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 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).

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.

Department policy states as follows:

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.

Note: For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130.

In this case, the claimant was required to provide verifications of her daughter's income as her daughter is a member of her FAP group. Although the claimant testified that her daughter does not often stay at her home, she also testified that her daughter does not have her own residence. Additionally, the claimant's daughter is under 22 years of age. Policy states that parents and children who are under 22 years old and who live together must be included in the same FAP group. BEM 212. Therefore, even though the claimant's daughter does not often stay at the home, she has no other permanent residence and is still considered to be living with the claimant. Because the claimant's daughter must be included in her FAP group, her income must be included and verified for budget purposes. The claimant must provide the verification requested even as it pertains to her daughter. Accordingly, the department acted properly in accordance with policy in closing the claimant's FAP case as it was not contested at the hearing that the requested verifications were not submitted.

In relation to the closure of the claimant's MA benefits, the department stated that the claimant exceeds the allowable income limit for the SLMB Medicare cost share. The department used [REDACTED] as total unearned income for the claimant's MA budget. However, the department was not able to articulate how they determined that the claimant had [REDACTED] in unearned income. The department testified that they used the claimant's RDSI amount plus the claimant's child support arrearage amount (both of which are properly added to unearned income amounts) to arrive at the total unearned income amount. But the figures do not add up and the department was not able to state how the income figure used was calculated. The Administrative Law Judge cannot reconcile how the figure used for unearned income was calculated. Therefore, the Administrative Law Judge finds that the department has not met their burden of going forward to show that the claimant's MA case was closed in accordance with policy.

DECISION AND ORDER

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

Accordingly, the department's FAP actions are **AFFIRMED**.

Additionally, the department's MA actions are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's eligibility for MA (SLMB) benefits back to the date of negative action (June 1, 2012). If the claimant is found to be otherwise eligible, the department shall reinstate benefits and, if applicable, issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

/s/

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

Date Signed: June 25, 2012

Date Mailed: June 25, 2012

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:

