

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

IN THE MATTER OF:



Reg. No: 201270686
Issue No: 2006, 3008
Case No: [REDACTED]
Hearing Date: September 25, 2012
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 September 25, 2012. The claimant appeared and provided testimony.

ISSUES

Whether the department properly closed the claimant's Medical Assistance (MA) and Food Assistance Program (FAP) cases for failure to cooperate by not submitting the requested 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. As a result of a redetermination conducted regarding the claimant's MA benefits, the claimant was sent a verification checklist on July 12, 2012, with a due date of July 23, 2012. (Department Exhibit A).
3. The requested verifications were not received until July 30, 2012. (Department Exhibit B).
4. The claimant was sent a notice of case action on August 8, 2012, stating that her FAP and MA cases would be closing due to her failure to submit the requested verifications by the due date.
5. On August 13, 2012, the claimant filed a hearing request protesting the closure of her MA and FAP 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. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Program Reference Manual (PRM).

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 as to eligibility or continuing eligibility, 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.

MA and AMP

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130.

In the case at hand, the claimant testified that she received the verification checklist from the department two days before it was due. She further testified that she had difficulty contacting her former supervisor to obtain the requested verification. She testified that she contacted the department and stated that she did not feel that she was going to be able to get the verification to the department by the due date due to her difficulty in contacting her former supervisor. She testified that she left a message and did not get a return phone call. The department representative testified that there was not an extension given regarding the verification checklist sent to the claimant on July 12, 2012. This Administrative Law Judge finds that the claimant took reasonable action to attempt to obtain the requested verifications. Additionally, the claimant contacted the department and requested additional time to submit those verifications, which she did in fact submit. As the verifications in question pertained to the claimant's MA redetermination, policy directs that if additional time is requested, the department is to extend the deadline up to three times. Accordingly, the department should have granted an extension to allow the claimant 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 improperly closed the claimant's MA and FAP cases for failure to cooperate by not submitting the requested verifications.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the department shall allow the claimant to submit any additional necessary verifications, and provide assistance if requested. The department shall then initiate a redetermination of the claimant's eligibility for MA and FAP benefits back to the date of negative action (July 1, 2012 for MA and September 1, 2012 for FAP), if the claimant is found to be otherwise eligible, the department shall reinstate benefits in accordance with policy 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: October 3, 2012

Date Mailed: October 4, 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 90 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

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