

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

IN THE MATTER OF:



Reg. No: 201272290
Issue No: 3008, 6019
Case No: [REDACTED]
Hearing Date: October 2, 2012
Saginaw 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 October 2, 2012. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly deny the claimant's application for Food Assistance Program (FAP) benefits for failure to return the requested verifications?
2. Did the department properly deny the claimant's application for Child Development and Care (CDC) assistance 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 submitted an application for FAP and CDC benefits.
2. On August 1, 2012, the claimant was sent a verification checklist (DHS 3503) requesting verification of wages for [REDACTED] to be submitted to the department by August 13, 2012. (Department exhibits 1-2)
3. The department did not receive the requested verifications and on August 15, 2012, sent the claimant a notice of case action stating that her FAP application was being denied for failing to submit the requested verifications. (Department Exhibits 8-11)

4. On August 1, 2012, the claimant was sent a notice of case action (DHS 1605) stating that her application for CDC benefits was being denied due to excess income. (Department Exhibits 3-7)
5. On August 9, 2012, the claimant filed a hearing request protesting the denial of her FAP and CDC applications.

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 Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), 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 testified that the requested verifications were submitted sometime during the week of July 23, 2012 through July 27, 2012. She testified that the verifications were submitted to the department and that the sign in log was signed on the day they were dropped off. The claimant and the department agreed that the department would examine the sign in logs during the week in question after the close of the hearing and that the results would be sent to this Administrative Law Judge. The department did send in the results which showed that there was no record of such verifications being submitted to the department during the week in question (see Department Exhibit 18). Accordingly, the Administrative Law Judge does not find that there is evidence supporting the claimant's assertion that said documentation was submitted to the department as requested. Therefore, the department acted properly in accordance with policy in denying the claimant's application for FAP benefits.

For the claimant's CDC application, the department determined that the claimant's household income was over the allowable limit. The claimant asserted that she does not bring home as much as her gross income shows due in part to a garnishment against her wages for student loan debt. The department arrived at the income figure used to determine the claimant's eligibility based on paychecks submitted by the claimant and based on the statement of income made by a member of her household, Mr. Lerma. BEM 500 states that although a garnishment may be withheld from a claimant's paycheck, it is still to be included in the claimant's gross income amount for purposes of calculating eligibility. BEM 500, page 3. Therefore, the department did properly include the garnished amount of the claimant's income into her budget for purposes of determining CDC eligibility. The department then determined that the claimant's household had a countable monthly income of \$ [REDACTED]. RFT 270 states that the income limit for a group size of 5 is \$ [REDACTED]. Accordingly, the department properly determined that the claimant's countable income exceeded the allowable limit for CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's FAP and CDC applications.

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

It is SO ORDERED.

/s/

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

Date Signed: October 10, 2012

Date Mailed: October 11, 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.

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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:

