

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201238046
Issue No: 3008, 1005, 6015
Case No: [REDACTED]
Hearing Date: April 3, 2012
Washtenaw 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 Tuesday, April 3, 2012. The claimant personally appeared and provided testimony. The claimant was represented by [REDACTED] who also provided testimony on behalf of the claimant. [REDACTED] translated for the claimant.

ISSUE

Did the department properly deny the claimant's application for Family Independence Program (FIP), Food Assistance Program (FAP), and Child Development and Care (CDC) benefits for failure to return 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. On January 4, 2012, the claimant submitted an application for Food Assistance Program (FAP), Family Independence Program (FIP), and Child Development and Care (CDC) benefits. (Department Exhibits 3-19).
2. On November 21, 2011, the claimant had submitted an online Healthy Kids application in which it was stated that the claimant has [REDACTED] in the amount of [REDACTED] per month with [REDACTED] in expenses as well as [REDACTED] per month in unearned income for her [REDACTED], [REDACTED]. (Department Exhibits 25-31).
3. On January 24, 2012, the department sent the claimant a verification checklist (DHS 3503) requesting verification of the claimant's self-employment income and verification of the unearned income on behalf of her daughter. (Department Exhibits 20-21).

4. On February 6, 2012, the department sent the claimant a second verification checklist (DHS 3503), requesting the same information as the prior verification checklist with a new due date of February 13, 2012. (Department Exhibits 22-23).
5. The department did not receive the requested verifications from the claimant by the due date.
6. The claimant was sent a Notice of Case Action (DHS 1065) on February 14, 2012, informing her that her application for FIP, FAP, and CDC benefits was being denied due to her failure to submit the requested verifications. (Department Exhibits 32-35).
7. The claimant submitted a hearing request on February 23, 2012 protesting the denial of her application.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. 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 relation to assisting claimants, department policy states that particular sensitivity must be shown to claimants who are not fluent in English. Policy further states that the claimant may have their own interpreter or that the department shall furnish an interpreter for the claimant. BAM 105.

In the case at hand, the claimant does not speak English, and the language barrier was recognized by the department. The department's case notes show that the department worker utilized the department's language link on several occasions to assist the claimant in the application process (see Department Exhibits 36-37). Additionally, the department worker spoke to the claimant through her [REDACTED], [REDACTED]e, who interpreted for the claimant.

At the hearing, the claimant testified that she did not understand the verifications that were being requested of her. There was also testimony offered to show that the claimant did not have [REDACTED], and that the claimant's online application erroneously stated that her income was from [REDACTED]. However, the claimant did testify that her [REDACTED] sends her [REDACTED] per month to help with the support of the child. This support is not paid through the Friend of the Court but rather is just paid between the parties. In the discussions the claimant had with the case worker (through translation), the claimant stated that she did not have [REDACTED] [REDACTED]e or unearned income. While the former is true, the latter is simply not the case by the claimant's own admission. At the hearing the claimant commented that she did not understand why she would have to list the income of the [REDACTED] per month and in turn show proof thereof because that money is paid for the support of her [REDACTED].

Policy states that support paid by an absent parent directly to the custodial parent without a court order must be counted as unearned income for the child BEM 503. All income, both earned and unearned, is countable and must be included in the claimant's budget BEM 500. Even though the [REDACTED] is credited to the [REDACTED], that income must be included in the claimant's budget because the claimant's [REDACTED] must be included in her FAP group because the [REDACTED] is under 22 years old and lives with the claimant. BEM 212, 210. Accordingly, the [REDACTED] of support income must be included in the group's budget and in turn must be verified. While it is reasonable to assert that the claimant would have been unable to provide verification of the non-existent self-employment income, the claimant was also required to provide verification of the unearned support income. Although the claimant denied to the department worker that such income existed, she testified at the hearing that said income exists and

she also indicated that said income is received on both her November 21, 2011 application and on her January 4, 2012 application (see Department Exhibit 14).

This Administrative Law Judge finds that the claimant was required to provide verification of her unearned support income to the department, that said verification was never received by the department, and that the department took reasonable and appropriate measures to accommodate the language barrier by utilizing the language line and by communicating with the claimant through her [REDACTED], whom the claimant had designated as a translator. Accordingly, the Administrative Law Judge finds that the department acted properly in accordance with policy in denying the claimant's application due to failure to return 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 properly denied the claimant's application for FIP, FAP, and CDC benefits.

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

/s/

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

Date Signed: April 10, 2012

Date Mailed: April 10, 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.

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