

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

IN THE MATTER OF:



Reg. No: 201243342
Issue No: 3008
Case No: [REDACTED]
Hearing Date: May 1, 2012
Wayne County DHS #31

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 May 1, 2012. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly close the claimant's case Food Assistance Program (FAP) benefits for failure to return 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 has been a recipient of FAP benefits during all relevant time periods.
2. On October 7, 2011, the claimant was sent a verification checklist with a due date of October 17, 2011. (Department Exhibit 1).
3. The department did not receive the verifications requested.
4. On March 22, 2012, the department sent the claimant a notice of case action (DHS 1605) stating that his FAP benefits would be closing as of October 1, 2011 for failure to return the requested verifications. (Department Exhibit 2).
5. The claimant submitted a hearing request on April 4, 2012, protesting the closure of his FAP case.

heading

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).

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.

heading

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

heading

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.

Policy also directs that notice must be given to claimants when the department takes action affecting their benefits. There are two different types of notice for cases requiring such; adequate and timely notice. Adequate notice is notice is written notice sent to the claimant the same time the action takes effect. BAM 220. Timely notice is given for a negative action on all programs unless policy specifies adequate or no notice required. BAM 220. A timely notice is mailed at least 11 days before the action takes effect. BAM 220. With respect to the FAP program, policy sets out specific instances where no notice is required. Policy states as follows:

Actions Not Requiring Notice FAP Only

A notice of case action is **not** sent in the situations below. The action must take effect no later than the month after the change.

- Reliable information indicates the group left the state.
- Reliable information indicates all members died. Reliable sources generally include a newspaper, friends or relatives of the group, or other agencies.
- Supplementation over multiple months to restore lost benefits is completed; see BAM 406.
- From a joint FIP/SDA and FAP application, the FAP benefit began first **and** the FAP approval letter indicated the benefit might decrease if FIP/SDA were later approved.
- The FAP benefit varies from month to month within the benefit period due to changes anticipated when the case was certified, **and** the group was so notified at that time.
- Benefits are reduced for failure to repay an FAP overissuance that resulted from IPV (BAM 720) or client error (BAM 715). Also see BAM 725.
- The FAP certification period has expired.
- The group voluntarily requests closure in writing. BAM 220.

In the case at hand, the department sent the claimant notice that his case would be closing effective October 1, 2011. That notice was sent March 22, 2012. Policy directs that if the department is to take negative action on a FAP case, timely notice must be given unless policy specifies otherwise. For closure due to a failure to submit requested verification, policy does not state that such a closure requires no notice or adequate notice. Even if adequate notice was allowed, the notice given by the department in this case would still not suffice. The department did not provide proper notice to the

heading

claimant that his FAP case was being closed. Therefore, the department did not properly close the claimant's FAP case for failure 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 FAP case.

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

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's eligibility for FAP benefits back to the date of negative action (October 1, 2011) and allow the claimant to submit any documentation that may be required. 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: May 9, 2012

Date Mailed: May 9, 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

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