

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201262485
Issue No.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: August 9, 2012
County: Wayne DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 9, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, [REDACTED], Specialist, and [REDACTED], Manager.

ISSUE

The issue is whether DHS properly denied Claimant's application for Food Assistance Program (FAP) and Medical Assistance (MA) benefit eligibility due to Claimant's alleged failure to submit required verifications.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On 6/8/12, Claimant applied for FAP benefits and MA benefits.
2. At the time of application, Claimant was employed.
3. On 6/11/12, DHS mailed Claimant a Verification Checklist requesting the return of verification of Claimant's last 30 days of employment income.
4. Claimant had until 6/21/12 to return the verification of employment income to DHS.
5. Claimant failed to return the verification to DHS.

6. On 6/22/12, DHS denied Claimant's FAP benefit application due to Claimant's failure to verify employment income.
7. DHS also partially denied MA benefits to Claimant (not to her children).
8. On 7/5/12, Claimant requested a hearing to dispute the MA and FAP application denials.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

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). DHS 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 Reference Tables Manual (RFT).

A request for program benefits begins with the filing of a DHS-1171 or other acceptable form. BAM 110 at 1. Before processing an application, DHS can require a client to verify information within their application. DHS must give clients at least ten days to submit verifications. *Id.* Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. *Id.* DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 2. DHS is to use the DHS-3503, Verification Checklist to request verification. *Id.* at 3. For all programs other than Healthy Kids, DHS is to verify non-excluded earned income at application. BEM 500 at 7.

The present case concerned a denial of FAP and MA benefits based on an alleged failure to verify employment income. Claimant testified that she submitted the needed employment verifications; DHS denied receiving Claimant's employment income verification. Thus, the correctness of the DHS action hinges on whether Claimant did or did not submit verification of her income to DHS.

Claimant contended that she faxed her last 30 days of employment pays to DHS on an unspecified date. Claimant also stated that she faxed the documents to a different DHS office after her case was transferred to that office. Claimant failed to bring a document verifying her fax transmissions to DHS. Claimant stated that she faxed the documents

from her workplace, and there was no reason given that would have prevented Claimant from obtaining a record of the faxing. Claimant's failure to verify her document submissions is very problematic to Claimant's contention. Generally, a party that has access to evidence but fails to present the evidence at a hearing should not be given the benefit of the doubt in the dispute.

When Claimant was questioned about details about the faxing, she appeared to be credible. Claimant confidently answered questions such as how she obtained the DHS fax number, which fax machine was used and how long her fax was. Claimant's credibility tended to support a finding that Claimant submitted the documents to DHS, or at least she genuinely made an attempt to fax the documents to DHS. It is possible that Claimant's fax was never completed due to problems with the fax machine used. It is possible that Claimant faxed the documents to an incorrect number. It is possible that a coworker terminated Claimant's fax in mid-transmission.

Concerning DHS evidence, there really is no practical evidence that could have been presented to establish that Claimant failed to submit the requested income documentation. A testifying DHS specialist estimated that she was 99.9% certain that Claimant's fax was not misplaced, though there is no evidence justifying the estimate. It would certainly be a reasonable possibility that DHS may have lost and/or misdirected an occasional document.

Based on the presented evidence, Claimant's failure to verify her fax transmission is found to be the most persuasive consideration in determining whether DHS received Claimant's income information. This consideration leads to a finding that Claimant failed to successfully submit the requested income information to DHS.

For FAP benefits, DHS is to send a Negative Action Notice when the client indicates a 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 at 5. For MA benefits, DHS is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. *Id.* at 6. Based on the finding that Claimant failed to successfully send required information to DHS, it is found that DHS properly denied Claimant's application for FAP and MA (for Claimant) benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FAP and MA application dated 6/8/12 due to Claimant's failure to verify employment income.

The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 14, 2012

Date Mailed: August 14, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

