

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201265588
Issue No.: 2006; 3008
Case No.: [REDACTED]
Hearing Date: August 30, 2012
County: Macomb DHS (36)

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, an in-person hearing was held on August 30, 2012 from Sterling Heights, Michigan. Participants included the above named claimant; [REDACTED] testified on behalf of Claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) benefits and terminated Claimant's Food Assistance Program (FAP) benefit eligibility due to an alleged failure to verify checking account information.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant's current husband (he was not married to Claimant at the time) was a FAP benefit group member.
3. On 3/5/12, Claimant and/or Claimant's spouse applied for MA benefits through an authorized representative.

4. The MA benefit application listed a checking account for Claimant's spouse with a bank listing a \$5 balance.
5. On an unspecified date, DHS mailed Claimant a Verification Checklist requesting verification of Claimant's checking account.
6. Claimant reported to DHS that the checking account was either non-existent or closed several years prior to the application date.
7. On 7/9/12, DHS initiated termination of Claimant's FAP benefit eligibility, effective 8/2012, due to a failure to verify checking account information.
8. On 7/9/12, DHS denied Claimant's spouse's application for MA benefits due to a failure to verify checking account information.
9. On 7/19/12, Claimant requested a hearing to dispute the MA benefit denial and FAP benefit termination.

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).

The present case involved a denial of MA benefits and a termination of FAP benefits based on a failure by Claimant to submit verification of a checking account. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (5/2012), p. 1. DHS must give clients at least ten days to submit verifications. *Id.*, p.5. DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2. DHS is to use the DHS-3503, Verification Checklist to request verification. *Id.*, p. 2-3.

It was not disputed that Claimant's spouse's MA benefit application specifically listed that he had a checking account with a \$5 balance. Claimant's spouse contended that

the checking account either never existed or was terminated so long ago that the bank could not provide any documentation concerning the bank account.

In support of the contention, Claimant's spouse testified that he used to cash his employment checks at the bank where he had a checking account. Claimant's spouse testified that he assumed that he still had a checking account with a small balance at the bank because he thought that the bank would not cash his checks without a checking account. Claimant's spouse stated that he never closed the account and assumed that it was still open. He testified that when he asked the bank for a bank statement, he was told that he had no active accounts in the prior seven years.

If neither the client nor DHS can obtain verification despite a reasonable effort, DHS is to use the best available information. *Id.*, p. 3. If no evidence is available, DHS is to use best judgment. *Id.*

Claimant's spouse testified that he went to the bank where he thought that he had an account four times in an effort to obtain verification. He also testified that the bank refused to provide any documentation because of his lack of recent history with the bank. Thus, Claimant's spouse contended that he could not, despite his best efforts, verify the checking account information to DHS. If Claimant's testimony was accepted as true, it should be found that DHS improperly took adverse actions to the MA application and ongoing FAP benefits.

Claimant's spouse's testimony concerning whether a checking account existed was strangely ignorant. Claimant's spouse thought he had a checking account when completing an application for MA benefits yet stated that he did not have a checking account in seven years. The discrepancy between Claimant's application and testimony is wildly different. It would seem unlikely that somebody would believe that they had a checking account and then claim that no checking account existed in the last seven years. Also, it is reasonably possible that Claimant's spouse has an incentive to not verify checking account information. It is possible that the account has a balance which may affect MA benefit eligibility, or that a statement would reveal unreported income or suspicious deposits.

Claimant's specialist was skeptical of Claimant's excuses and declined to excuse Claimant's lack of verification despite several weeks of patient waiting. The specialist's skepticism was not baseless. The specialist also used his own experiences as part of his decision making; he testified that he recalled other clients who were successful in obtaining letters of closed accounts from the bank, though not necessarily from the same branch.

Despite the reasons to doubt Claimant's spouse's testimony concerning the difficulties in obtaining checking account verification, there were reasons to accept the testimony as credible. The discrepancy between Claimant's spouse's testimony and his application may have partially been due to communication problems between Claimant's spouse and the authorized representative who completed the application.

Though a client's application is ultimately the client's responsibility, miscommunication with the representative is an explanation for misinformation in an application. Claimant's spouse's statement that the bank was unwilling to provide any documentation is plausible, especially had no recent history with the bank. This evidence was supportive of finding that a verification was not available to Claimant's spouse's, despite his best efforts.

As noted above, Claimant's spouse's lack of supporting documentation is troublesome. By the same token, DHS had no documentation to disprove Claimant's spouse's testimony. More troublesome for DHS is that it was essentially conceded that verification was potentially available to DHS.

Part of the DHS case rested on a Verification of Assets form returned by the representative. The unsigned form was unacceptable verification of the checking account because there was no evidence that the bank ever completed the form. DHS noted that the bank was required by law to complete and return the form if Claimant signed the form. Thus, DHS could have obtained Claimant's signature on the form and mailed it to Claimant's bank. If this was done, DHS would have either obtained the bank account information and processed Claimant's case accordingly, or not obtained the information thereby verifying that the bank was uncooperative. The client must obtain required verification, but DHS must assist if they need and request help. *Id.* The present case would have been an appropriate circumstance for DHS' assistance in obtaining the bank account verification.

Based on the presented evidence, it is found that DHS did not assist Claimant in obtaining checking account verification. Accordingly, the adverse actions taken to Claimant's FAP benefit eligibility and Claimant's spouse's MA benefit application were improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's spouse's application for MA benefits and terminated Claimant's eligibility for FAP benefits. It is ordered that DHS:

- (1) reinstate Claimant's spouse's MA benefit application dated 3/5/12;
- (2) reinstate Claimant's eligibility for FAP benefits effective 8/2012;
- (3) process ongoing eligibility for FAP and MA benefits subject to the DHS choice of the following:
 - a. Claimant's spouse's statement that the checking account does not exist is the best evidence to verify the checking account status, or
 - b. Claimant's spouse must cooperate in signing a Verification of Assets so that DHS may attempt to obtain checking account information from the bank directly.
- (4) supplement Claimant and Claimant's spouse for any benefits not received as a result of the improper MA application denial and FAP benefit termination.

The actions taken by DHS are REVERSED.



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

Date Signed: September 7, 2012

Date Mailed: September 7, 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

