

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

IN THE MATTER OF:



Reg. No: 201268894
Issue No: 3015, 2006
Case No: [REDACTED]
Hearing Date: September 11, 2012
Macomb 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 the claimant's request for a hearing. After due notice, a telephone hearing was held on September 11, 2012. The claimant personally appeared and provided testimony.

ISSUES

1. Whether the department properly denied the claimant's Food Assistance Program (FAP) application due to excess income?
2. Whether the department properly denied the claimant's application for Medical Assistance (MA) 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 submitted an application for FAP benefits on May 29, 2012.
2. The claimant's application for FAP benefits was denied due to the claimant being over the income limit for the program.
3. The claimant's MA application was denied due to the claimant not submitting bank statements as requested by the department.
4. The claimant was notified of the department action on July 16, 2012. (Department Hearing Summary).

5. On July 26, 2012, the claimant filed a request for hearing, protesting the denial of his FAP and MA 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 affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. 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).

In relation to FAP eligibility, policy provides that a group's income must be below a certain amount for eligibility to exist. When determining countable income, earned and unearned income for the entire group is used to determine eligibility. BEM 500. In this case, the department determined that the claimant's group had countable income of \$2,569.00 per month (see Department Exhibit A). The department arrived at this figure by adding the claimant and his daughter's Social Security income along with the child support income reported to the department by the Friend of the Court (Department Exhibits D and E). Although the claimant contends that he is no longer receiving the amount of child support used by the department, at the time the budget was calculated, the department had reliable information showing that the claimant received the amounts used.

After the proper deductions were applied to the claimant's case, the department determined that the claimant had a net income of \$ [REDACTED]. The net income limit for a group size of 2 is \$ [REDACTED] (RFT 250). Therefore the claimant's net income exceeded the allowable amount for FAP benefits. Although the department did not include the claimant's housing expenses on his budget, the matter was addressed at the hearing and it was determined that the claimant's income would have still been over the limit even if the housing expenses were included. The Administrative Law Judge therefore finds that this omission is harmless error. The claimant also testified that he has additional expenses for the care of his daughter that were not included in the budget. The department contests that it was not made aware of these expenses at the time the budget was completed and the claimant asserts that he did inform the department of the

expenses. However, the claimant was not able to provide any credible testimony as to who he provided said information to or when he provided that information. Accordingly, based on the evidence presented and the testimony on the record, the Administrative Law Judge determines that based on the information available at the time, the department properly denied the claimant's FAP application due to excess income.

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). The Department of Human Services (DHS or department) 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 Bridges Reference Manual (BRM).

In relation to a claimant's responsibilities in obtaining the verifications needed for the department to make a determination as to eligibility or continuing eligibility, policy states as follows:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

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.

In the case at hand, the department contends that the claimant did not submit verification of a bank account as requested by the department. As a result of his failure to submit said verifications, the department denied the claimant's MA application. The claimant testified that he did in fact submit the bank account verifications requested by the department on multiple occasions. The Administrative Law Judge finds the claimant's testimony that he did submit the bank account verifications credible. Accordingly, as the Administrative Law Judge finds that the claimant did submit the verifications as requested, the department did not properly deny the claimant's application for MA 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 application but that the department improperly denied the claimant's MA application.

Accordingly, the department's actions pertaining to the claimant's FAP application are **AFFIRMED**.

It is SO ORDERED.

However, the department's actions pertaining to the claimant's MA application are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's MA eligibility as of the date of the original application. If the claimant is found to be otherwise eligible, the department shall issue benefits in accordance with policy 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: September 19, 2012

Date Mailed: September 20, 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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