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

IN THE MATTER OF:



Reg. No.: Issue No.: Case No.: Hearing Date: County:

2013-37109 2006, 3008

April 25, 2013 Montcalm County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on Apr il 25, 2013, from Lansing, Michigan. Participants on behalf of Claimant inc luded and a participants on behalf of Department of Human Services (Department) included

ISSUE

Due to a failure to c omply with verification requirem ents, did the Department properly close the Claimant's Food As sistance Program (FAP) benefit s and Medical Assistance (MA) benefits?

FINDINGS OF FACT

I find as material fact based upon competen t, material, and substantial evidence on the whole record, including testimony of witnesses:

- 1. As of March 1, 2013, the Claimant was receiving FAP benefits and MA assistance.
- 2. On March 4, 2013, the D epartment sent the Claimant a verification checklis t. The checklist requested proofs for trust payments. The verifications were due by March 14, 2013.
- 3. As of March 14, 2013, the Claimant had not returned the requested verifications.
- 4. On March 15, 2013, the Department sent the Claimant a notice of case action. The notice indicated the Department was closing the Claimant's FAP case and MA cas e effective April 1, 2013 for failing to return the requested verifications.
- 5. On March 26, 2013, the Claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The FAP [formerly known as the Food Stamp (F S) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in T itle 7 of t he Code of Federal Regulations (CF R). The Department (formerly known as the Fa mily Independence Agenc y) admin isters FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

The MA program is established by the Titl e XIX of the Social Security Act and is implemented by T itle 42 of t he Code of F ederal Regulations (CFR). The Department (formerly known as the Fa mily Independence Agenc y) admin isters the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Clients have the right to contest a Departm ent decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to rev iew the decision and determine the appropriateness of that decision. (BAM 600).

Department policy indicates the at clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clie ints who are able to but refuse to provide necessary information or take a required action are subject to penalties. (BAM 105).

Testimony and other evidence must be we ighed and considered according to its reasonableness.¹ Moreover, the weight and credibi lity of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness 's testimony, and the interest, if any, the witness may have in the outcome of the matter.³

I have carefully considered and weighed the testimony and other evidence in the record and find the Department's testimony to be s lightly more credible than the Claimant as the Department witness had a c learer recollection of the dates, times and events in question. Additionally, the Cl aimant has the res ponsibility of at least attempting to retrieve the verifications requested. And th at doesn't appear to be the case here. The Claimant pushed the verification search off onto the Department the day the verifications were due and although there is speculation that the Claimant's brother contacted the Department, there is no evidence of what information was provided when it was provided and zero evidence that the brother is in fact the owner of

as the Claimant alleges.

¹ *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

I do believe that if the brother is who the Claimant claims he is, then it should not have been a problem for the Claimant to obtain the verifications documents as requested by the Department.

Because, I do not find the Claimant made an ho nest good faith attempt to obtain the documentation requested, I find the Department's actions were appropriate in this case.

Accordingly, I find evidence to **affirm** the Department's actions.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, the Department did act properly.

Accordingly, the Department's decision is **AFFIRMED**.

fact

Corey A. Arendt Administrative Law Judge For Maura Corrigan, Director Department of Human Services

Date Signed: April 26, 2013

Date Mailed: April 26, 2013

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the receipt date of this Dec ision and Orde r. MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely 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 <u>MAY</u> 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address ot her relevant iss ues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative hearings

Recons ideration/Rehearing Request

P. O. Box 30639 Lansing, Michigan 48909-07322

CAA/las

