

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201313780
Issue No: 2006, 3008, 5020
[REDACTED] [REDACTED]
Hearing Date: January 9, 2013
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 received by the Department of Human Services (department) on November 19, 2012. After due notice, a telephone hearing was held on January 9, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist, and [REDACTED], a family independence manager, both with the department's Kent County office.

ISSUE

Whether the Department of Human Services (department) properly denied Claimant's application for Food Assistance Program (FAP) benefits, , Medical Assistance (MA), benefits, and State Emergency Relief (SER) assistance for failure to return the required 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. On October 5, 2012, Claimant's caseworker submitted an online application for FAP, MA, and SER benefits on Claimant's behalf and, in doing so, the worker incorrectly entered Claimant's home address as [REDACTED]. (Department Exhibit A; [REDACTED] Hearing Testimony)
2. On October 8, 2012, the department mailed Claimant a Verification Checklist (DHS 3503) to the address of [REDACTED], [REDACTED], requesting that Claimant provide verification of her mortgage, checking account, home insurance, life insurance, and property taxes. This information was due to the department by October 18, 2012. (Department Exhibit B)

3. On October 8, 2012, the department also mailed Claimant an SER Verification Checklist (DHS 3503-SER) to the address of [REDACTED], [REDACTED], requesting that Claimant provide verification of her checking account. This information was due to the department by October 15, 2012. (Department Exhibit C)
4. Claimant did not provide the department with the requested verifications by the October 15 and October 18, 2012 deadlines. (Department Hearing Summary)
5. On October 18, 2012, the department mailed Claimant a State Emergency Relief Decision Notice) to the address of [REDACTED], [REDACTED], advising her that her request for SER assistance with her heat-natural gas services had been denied for the reason that Claimant had failed to verify or allow the department to verify necessary information. (Department Exhibit E)
6. On October 30, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605)) to the address of [REDACTED], [REDACTED], informing her that her application for FAP and MA benefits had been denied due to her failure to provide the required verification of her bank account. (Department Exhibit F)
7. On November 15, 2012, Claimant requested a hearing contesting the department's denial of her application for FAP, MA, and SER benefits. (Request for Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or 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. BAM 600. 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 - .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). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program was 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 Program Reference Manual (PRM).

The State Emergency Relief (SER) program was established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (ERM).

Department policy indicates that 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. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. BAM 130. . For MA, if the client cannot provide the verification despite a reasonable effort, the time limit is extended up to three times. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130. (Emphasis added).

In the instant case, Claimant is disputing the department's denial of her application for FAP, MA, and SER benefits for failure to provide the requested verifications.

At the January 9, 2013 hearing, Claimant testified that her mailing address is in fact 947 Alexander SE and that her caseworker inputted the wrong address of [REDACTED] when the caseworker submitted an online assistance application on Claimant's behalf. Claimant further testified that she did not receive the Verification Checklists because they were mailed to [REDACTED]. The department's representative confirmed that she since learned from Claimant after her October 5, 2012 assistance application had been denied that Claimant's correct street address is [REDACTED]. The department's representative further confirmed that while the Verification Checklists mailed to Claimant at [REDACTED] were not returned to the department as undeliverable, the department did indeed receive several other pieces of mail returned to the department as undeliverable that had been mailed to Claimant at [REDACTED] SE, including the October 30, 2012 Notice of Case Action.

Testimony and other evidence must be weighed and considered according to its reasonableness. *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). Moreover,

the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). 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. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the hearing, it cannot be said that Claimant failed to provide the requested verifications if she never received them and was thus not given the opportunity to make a reasonable effort to provide the required verifications.

Consequently, the Administrative Law Judge finds the department improperly denied Claimant's October 5, 2012 application for FAP, MA, and SER assistance for failure to provide 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 denied Claimant's October 5, 2012 application for FAP, MA, and SER assistance for failure to provide the requested verifications. Accordingly, the department's actions are **REVERSED** and the department shall immediately reprocess Claimant's October 5, 2012 application for FAP, MA, and SER assistance and issue supplement checks for any months she did not receive the correct amount of benefits if she was otherwise entitled to them. In reprocessing Claimant's October 5, 2012 SER application, the department shall retroactively re-determine Claimant's eligibility for SER assistance at the time of her original application in accordance with the applicable department policy and award Claimant such SER assistance if she should have otherwise been entitled to it.

It is **SO ORDERED**.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 11, 2013

Date Mailed: January 14, 2013

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 60 days of the filing of the original request.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

