

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201316511
Issue No: 2000, 3008
Case No: [REDACTED]
Hearing Date: January 17, 2013
Ingham 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 December 4, 2012. After due notice, a telephone hearing was held on January 17, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], a family independence manager, and [REDACTED], an eligibility specialist, both with the department's Ingham County office.

ISSUES

1. Whether the department properly closed Claimant's Adult Medical Program (AMP) benefits due to excess income?
2. Whether the department properly closed Claimant's Food Assistance Program (FAP) benefits due to a failure to verify necessary information?

FINDINGS OF FACT

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

1. Claimant was a recipient of AMP and FAP benefits at all times relevant to this hearing.
2. On August 30, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605) advising her that, effective October 1, 2012, her AMP benefits would be discontinued for the reason that her income exceeded the limit for the program. (Department Exhibit A)
3. On September 26, 2012, Claimant reported to the department her loss of employment.

4. On September 27, 2012, the department mailed Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide verification of her loss of employment and wages. This information was due to the department by October 8, 2012. (Department Exhibit B)
5. Claimant did not submit the required verifications by the October 8, 2012 deadline.
6. On October 22, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that, effective December 1, 2012, her FAP benefits case would be closed due to her failure to provide the required verifications. (Department Exhibit C)
7. On December 4, 2012, the department received Claimant's hearing request protesting the department's August 30, 2012 closure of her AMP benefits and October 22, 2012 closure of her FAP 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. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. 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 400.901-400.951. 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). The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. BAM 600. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Bridges Administrative Manual (BAM) 600.

The Adult Medical Program (AMP) was established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

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 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 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).

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 to 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.

In the instant case, Claimant is disputing the department's August 30, 2012 closure of her AMP benefits and October 22, 2012 closure of her FAP benefits.

At the January 17, 2013 hearing, it was determined that Claimant's December 4, 2012 request for a hearing protesting the department's August 30, 2012 closure of her AMP benefits was untimely. Specifically, because Claimant's hearing request was not within 90 days of the disputed action taken by the Department, Claimant's hearing request was untimely.

Therefore, it is not necessary for the Administrative Law Judge to decide the issue of the department's closure of Claimant's AMP benefits. Pursuant to MAC R 400.902; 400.903 and 400.904, this portion of Claimant's hearing request is dismissed, because Claimant's hearing request was not submitted timely.

Regarding the department's October 22, 2012 closure of her FAP benefits, Claimant testified at the January 17, 2013 hearing that she did receive the Verification Checklist that the department mailed to her but it was after the October 8, 2012 deadline. Claimant further testified that, upon receiving the Verification Checklist, she contacted the specialist listed on the Checklist, [REDACTED], who advised her that he was not familiar with her case and could not provide her with any assistance. Claimant further testified

that she also called [REDACTED] numerous times prior to the October 22, 2012 closure of her FAP benefits and received no guidance regarding her required submittal of verifications.

[REDACTED] did not attend the January 17, 2013 hearing and therefore Claimant's testimony regarding her efforts to comply with the directions given in the Verification Checklist by calling [REDACTED] at the number provided is undisputed. Both [REDACTED] testified that Claimant did not contact them prior to the October 22, 2012 closure of Claimant's FAP benefits. This Administrative Law Judge requested that [REDACTED] review their phone records for the month of October 2012 to verify whether Claimant attempted to contact them – however, these findings were not provided to this Administrative Law Judge by the close of business on January 17, 2013.

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, based on the competent, material, and substantial evidence presented during the hearing, Claimant's hearing request regarding the department's August 30, 2012 closure of Claimant's AMP benefits is dismissed as untimely pursuant to MAC R 400.902; 400.903 and 400.904. This Administrative Law Judge further finds that the department did not act in accordance with policy when the department closed Claimant's FAP benefits effective November 1, 2012 for failure to timely provide the required verification documentation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant's hearing request regarding the department's August 30, 2012 closure of Claimant's AMP benefits is **DISMISSED** as untimely pursuant to MAC R 400.902; 400.903 and 400.904.

The Administrative Law Judge further decides that the department did not act in accordance with policy when the department closed Claimant's FAP benefits effective November 1, 2012 for failure to timely provide the required verification documentation. Accordingly, the department's actions in this regard are **REVERSED** and the department shall immediately reinstate Claimant's FAP benefits for the benefit period effective November 1, 2012 and issue supplement checks for any months she did not receive the correct amount of benefits if she was otherwise entitled to them.

It is **SO ORDERED**.

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

Date Signed: January 22, 2013

Date Mailed: January 23, 2013

NOTICE: Michigan Administrative Hearings 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 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 Order to Circuit Court within 30 days of the receipt of the 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:

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- 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:

