

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

IN THE MATTER OF:



Reg. No.: 201318373
Issue No.: 1005
Case No.: [REDACTED]
Hearing Date: May 16, 2013
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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, a telephone hearing was held on May 16, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Case Manager).

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's Family Independence Program (FIP) case?

FINDINGS OF FACT

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

1. Claimant was receiving FIP.
2. Claimant was not provided with a Redetermination (DHS-1010).
3. Claimant was required to submit requested verification by November 2, 2012.
4. On November 19, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FIP case for failure to submit verification in a timely manner.
5. On November 27, 2012, Claimant filed a hearing request, protesting the closure.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For FIP, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. But if the CDC client cannot provide the verification despite a reasonable effort, the department shall extend the time limit at least once. 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.

The Department must periodically redetermine an individual's eligibility for active programs. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210. A complete redetermination is required at least every 12 months. BAM 210. However, the client must complete a DHS-1171, Assistance Application, to request a program that is not active at the time of redetermination. BAM 210. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications; see BAM 130, Obtaining Verification. BAM 210.

For FIP only, the specialist must conduct a telephone interview with the head of household at redetermination before certifying continued eligibility. BAM 210. However, conduct an in-person interview if the client requests one or the specialist determines it is appropriate. BAM 210. For example, the specialist suspects information in the DHS-1171 or DHS-1010 is fraudulent or the DHS-1171 or DHS-1010 signatures are questionable. BAM 210. When conducting a telephone interview, the Department worker should ask the head of household a question only the head of household could answer (such as last four digits of their Social Security number, date of birth, etc.) to

ensure the identity of the caller. BAM 210. The Department shall document the case record with the answer. BAM 210.

Bridges generates a redetermination packet to the client 3 (three) days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210. Bridges sends a DHS-2063B, Continuing Your Food Assistance Benefits, to FAP clients for whom FIP, SDA, MA, AMP, and/or TMAP are **not** active. BAM 210. **The packet is sent to the mailing address in Bridges.** The packet is sent to the physical address when there is no mailing address. BAM 210. The packet is also sent to the MA authorized representative on file. BAM 210.

For all programs, a redetermination/review packet is considered complete when **all** of the sections of the redetermination form including the signature section are completed. BAM 210. When a complete packet is received, the Department worker shall record the receipt in Bridges as soon as administratively possible. BAM 210. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210.

If the redetermination packet is not logged in by the negative action cutoff date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. BAM 210.

BAM 210 provides the following case management tip for its workers: “Be especially careful to record the receipt of the completed forms as they are received to prevent the incorrect generation of the DHS-1046A and/or closure of the case. If the completed DHS-1046 and verifications are returned by the last day of the sixth month, process the changes to ensure the client’s benefits are available no later than 10 days after their normal issuance date in the seventh month of the benefit period.”

For FIP, SDA and FAP, the Department worker shall: (1) obtain a complete redetermination/review packet from the client; (2) compare the redetermination/review document to the existing DHS-1171 or previous DHS-1010 and other case data and reconcile any discrepancies and ensure anything omitted is completed; (3) review the verifications and reconcile discrepancies; (4) refer the client to view online the following sections of the DHS-1010 information booklet: (i) Things You Must Do; (ii) Important Things To Know; (iii) Repay Agreements and (iv) Information About Your Household That Will Be Shared. BAM 210.

In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file the redetermination through MI Bridges or file either a DHS-1010, Redetermination, DHS- 171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month. **Exception:** If the client’s redetermination materials are mailed late, the timely filing date is 17 days **after** the materials are mailed. **Example:** Madison’s FAP redetermination is due in July. The redetermination materials are mailed July 6th with a due date of July 16th on the DHS-3503. Madison returns all necessary items needed to complete her

review on July 20th. Her filing date is timely because her review materials were mailed late. Her benefits must be available to her on the scheduled issuance date. BAM 210.

For FIP, SDA, CDC, MA, AMP, and TMAP, verifications are due the same date as the redetermination/review interview. BAM 210. When an interview is not required, verifications are due the date the packet is due. BAM 210. Bridges allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the 10th day falls on a weekend or holiday, the verification would not be due until the next business day. BAM 210.

Here, Claimant testified that she did not receive the redetermination packet because her mail carrier had failed to deliver her mail during the time period in question. Claimant did receive the Notice of Case Action which was mailed one month after the redetermination packet. The Department did not dispute Claimant's testimony and, in fact, confirmed that Claimant called the Department shortly after she received the notice of case action and notified the Department that she had ongoing problems with her mail.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. This Administrative Law Judge finds that the substantial, material and competent evidence shows Claimant's testimony to be credible and persuasive that she did not receive the redetermination packet in this matter. The Department did not provide credible evidence to the contrary.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department improperly closed Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not act properly.

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

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- Initiate a redetermination of Claimant's FIP case.
- Reinstate Claimant's FIP case back to the date of closure.
- Provide Claimant any retroactive and/or supplemental FIP benefits Claimant is entitled to receive under applicable policies.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 16, 2013

Date Mailed: May 17, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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