

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201319858
Issue No: 3008
Case No: [REDACTED]
Hearing Date: January 31, 2013
DHS SSPC Central

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 January 2, 2013. After due notice, a telephone hearing was held on January 31, 2013. Claimant appeared by three-way conference call and provided testimony. The department was represented by [REDACTED], an assistance payments worker with the department's SSPC Central office.

ISSUE

Whether the department properly denied Claimant's application for Food Assistance Program (FAP) benefits for failure to timely provide 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 November 13, 2012, Claimant applied for FAP benefits and, in doing so, Claimant reported that was self-employed and had made some money in the summer. (Department Exhibit A)
2. On November 21, 2012, the department mailed Claimant a Self-Employment Income and Expense Statement requesting that Claimant provide verification of her self-employment income. However, the statement fails to specify the month or months for which the department sought the verification. (Department Exhibit B)
3. On December 4, 2012, Claimant provided the department with verification of her self-employment income for the months of October and November. (Department Exhibit B)

4. On December 19, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her FAP benefits application had been denied due to her failure to submit verification of her self-employment for the three months preceding her FAP application.
5. On December 27, 2012, Claimant requested a hearing contesting the department's denial of Claimant's application for FAP benefits.

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 her claim for assistance is denied. MAC R 400.903(1).

The FAP program was 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. The 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 for both programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

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. 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 denial of her application FAP benefits for failure to timely provide the requested verifications.

At the January 31, 2013 hearing, Claimant testified that she did not provide the department with verification of self-employment income for the months of August and September 2012 because she had no such income during those months and therefore only reported income for the months of October and November 2012. The department's representative testified that Claimant should have nonetheless provided the department with an additional statement regarding the fact that she had no self-employment income for August and September 2012.

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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that the department's instructions to Claimant regarding her self-employment income reporting responsibilities were less than clear – as underscored by the fact that the DHS-431 (Self-Employment Income and Expense Statement) failed to specify what months must be reported by Claimant and what further verification must be provided by Claimant in the absence of any self-employment income for a given month. Accordingly, this Administrative Law Judge finds, based on the competent, material, and substantial evidence presented during the hearing, the department did not act in accordance with policy when the department denied Claimant's FAP benefits application 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 the department did not act in accordance with policy when the department denied Claimant's FAP benefits application for failure to timely provide the required verification documentation.

Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate and reprocess Claimant's FAP benefits application 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: February 1, 2013

Date Mailed: February 1, 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:
 - 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;

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- 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:

