

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-20353
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 11, 2013
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, an in-person hearing was held on April 11, 2013. The claimant appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Food Assistance Program (FAP) benefits based upon the determination that claimant failed to provide verification information?

FINDINGS OF FACT

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

- (1) On November 15, 2012, claimant filed an application for FAP benefits.
- (2) On November 28, 2012, the department caseworker conducted an interview where it was determined that claimant receives \$ [REDACTED] per month in pension and \$ [REDACTED] in RSDI benefits.
- (3) On November 28, 2012, claimant was provided with a verification checklist, with information due to the department by December 10, 2012.
- (4) On December 10, 2012, claimant supplied verification information to the department.
- (5) On December 13, 2012, the department caseworker denied the claimant's case for failure to provide verification information (no pension check stub).
- (6) On December 13, 2012, the department caseworker sent claimant notice that her application was denied.

- (7) On December 21, 2012, claimant filed a request for a hearing to contest the department's negative action

CONCLUSIONS OF LAW

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 or her claim for assistance has been denied. MAC R 400.903(1). 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 Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is 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 of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, claimant testified that she supplied all pertinent documentation as requested. Claimant stated that she told the department caseworker that she does not receive a pay stub from her pension, but it is directly deposited into her account. Claimant did provide her bank statement which lists her pension amount and her RSDI amount in the direct deposit.

Relevant policy can be found at PAM, Item 130, which instructs caseworker to tell the client what verification is required, how to obtain it and the due date. The client must obtain required verification but the caseworker must assist if the client asks for help.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, page 1.

Use documents, collateral contacts or home calls to verify information.

A **document** is a written form of verification. It may include a photocopy, facsimile or email copy if the source is identifiable.

Permanent documents must be obtained only once, unless they are found to be missing from the case record. **Examples:** birth certificate, passports, divorce papers, death notice. Copies of these documents should remain in the case record. Nonpermanent documents must be current. **Examples:** driver's license, pay stub, rent receipt, utility bill, DHS-49.

Documents used to verify citizenship and identity may be originals or copies of the original document. BAM, Item 130, page 1.

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

- The client indicates refusal to provide a verification, **or**
- **The time period given has elapsed and the client has not** made a reasonable effort to provide it.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM, Item 130, pages 5-6.

In the instant case, claimant did not have check stubs to provide to the department caseworker, since her pension is directly deposited into her account. Claimant notified the department caseworker that she did not receive check stubs and provided the caseworker with her 2011 1099 income tax statement. She did provide all other verification information in a timely manner. She did provide a copy of her bank statement which indicates the monthly pension deposit amount. There is no discrepancy in the income amounts. There is no evidence on the record which indicates that claimant failed or refused to provide income verification information. The department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied claimant's application for FAP benefits. The department's decision must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the department has not established by a preponderance of the evidence that claimant failed or refused to provide verification information.

Accordingly, the department's prior decision is **REVERSED**.

The department is ORDERED to reinstate claimant's November 15, 2012 Food Assistance Program benefits application. The department shall make an assessment of claimant's eligibility or lack thereof for November 15, 2012 forward and shall provide claimant in writing notice of her eligibility or lack thereof for Food Assistance Program benefits. If claimant is otherwise eligible, the department shall pay to claimant any food Assistance Benefits that she is eligible for the months of November and December 2012 and January 2013.

/s/ _____
Landis Y. Lain
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 15, 2013

Date Mailed: April 15, 2013

NOTICE: Administrative Hearings 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. Administrative Hearings 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 the 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 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 error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LYL/las

cc:

