

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201323727
Issue No: 3008
Case No: [REDACTED]
Hearing Date: February 13, 2013
Macomb County DHS #36

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 16, 2013. After due notice, a telephone hearing was held on February 13, 2013. Claimant appeared and provided testimony and Claimant's relative, Samia Yousif, appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an assistance payments supervisor with the department's Macomb County office.

ISSUE

Whether the Department of Human Services (department) properly denied Claimant's application for Food Assistance Program (FAP) benefits for failure to return the required verification?

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 December 5, 2012, Claimant applied for FAP benefits.
2. On December 20, 2012, the department mailed Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide verification of his checking account, vehicle ownership, vehicle value, and wages, salaries, tips, and commissions. This information was due to the department by January 2, 2013. (Department Exhibit B)
3. Claimant did not provide the department with the requested verifications by the January 2, 2013 deadline.

4. On January 3, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing him that his FAP benefits had been closed effective December 5, 2012 due to his failure to provide the required verifications. (Department Exhibit C)
5. On January 10, 2013, Claimant requested a hearing contesting the department's closure of his FAP benefit case.

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

Clients have the right to contest a department decision affective eligibility for 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 of that decision. BAM 600.

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).

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. (Emphasis added).

In this case, Claimant is disputing the department's denial of his application for FAP benefits for failure to provide the requested verifications. At the February 13, 2013 hearing, Claimant testified that he did timely submit the requested verifications by the January 2, 2013 deadline. However, Claimant offered no evidence indicating that he did so and the department's representative testified that the department first received Claimant's verifications on January 22, 2013, after the department had denied Claimant's FAP benefits application on January 3, 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).

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 at the hearing, the department acted in accordance with policy in denying Claimant's application for FAP benefits effective December 5, 2012 due to Claimant's failure to timely submit the required verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in denying Claimant's application for FAP benefits effective December 5, 2012 due to Claimant's failure to timely submit the required verifications. Accordingly, the department's action in this regard is **UPHELD**.

IT IS SO ORDERED.

/s/_____

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

Date Signed: February 15, 2013

Date Mailed: February 15, 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:

