

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201333156
Issue No: 2006, 3015
Case No: [REDACTED]
Hearing Date: May 15, 2013
Genesee County DHS (06)

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 February 25, 2013. After due notice, a telephone hearing was held on May 15, 2013. Claimant appeared and provided testimony and Claimant's husband, [REDACTED], also appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist, and [REDACTED], a family independence manager, both with department's Genesee County office.

ISSUE

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits and Medical Assistance (MA) benefits?

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 28, 2012, Claimant applied for FAP and MA benefits, including retroactive MA benefits for the month of September 2012.
2. On January 14, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her application for FAP benefits had been denied effective February 1, 2013 for the reason that her income exceeded the limit of the program. (Department Exhibit 1)
3. On January 14, 2013, the department also mailed Claimant a Verification Checklist (DHS 3503), informing Claimant that the department required

further verification to determine Claimant's MA eligibility. Specifically, the department requested that Claimant provide verification of her savings and checking accounts. The department also requested that the employers for Claimant and Claimant's husband, [REDACTED] and [REDACTED], complete the enclosed DHS-38 Verification of Employment forms, including the provision of income information for the period September 1, 2012 through December 31, 2012. This information was due to the department by January 24, 2013. (Department Exhibits 2, 3, 4)

4. On January 23, 2013, Claimant informed the department that she required an extension of the January 24, 2013 verification deadline. Claimant further informed the department that she did not receive the DHS-38 Verification of Employment for [REDACTED].
5. On January 23, 2013, the department granted Claimant's request for an extension of the verification deadline, extending the deadline until February 4, 2013. The department also faxed a DHS-38 Verification of Employment to [REDACTED], requiring that [REDACTED] complete and return the form by February 4, 2013. (Department Exhibit 5)
6. Claimant did not provide the department with the requested verifications by the new February 4, 2013 deadline.
7. On February 6, 2013, the department contacted Claimant and left her a voicemail indicating that the required employment verifications still had not been submitted. The department further advised Claimant that she would be given until the close of business on February 7, 2013 to submit these verifications.
8. Claimant did not provide the department with the requested verifications by the close of business on February 7, 2013.
9. On February 8, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) advising Claimant that, effective December 1, 2012, her application for MA benefits for Claimant and Claimant's husband had been denied due to her failure to provide her pay information from employer [REDACTED] for September, October, and November 2012 and due to her failure to provide Claimant's husband's pay information from employer [REDACTED] for November and December 2012. (Department Exhibit 6)
10. On February 21, 2013, Claimant submitted a hearing request protesting the department's closure of her MA and FAP benefits. (Request for a Hearing)

11. The hearing packet submitted by the department initially contained no hearing summary and no exhibits and consisted only of Claimant's Request for Hearing and Notice of Hearing. During the May 15, 2013 hearing, the department submitted by facsimile the documents previously prepared by the department on March 6, 2013, which included the Hearing Summary, January 14, 2013 Notice of Case Action, January 14, 2013 Verification Checklist and DHS-38 Verification of Employment Forms, and February 8, 2013 Notice of Case Action. No other documents relating to Claimant's request for hearing, including a FAP budget, were contained in the hearing packet. (Hearing Packet)

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. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

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 of Human Services (DHS or 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).

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 for the program are contained in the BAM, the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Clients must take actions within their ability to obtain verifications and the department must assist clients when necessary. BAM 105. The department tells the client what verification is required, how to obtain it, and the due date through the use of the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130. The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or

gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

For MA, the client is allowed 10 calendar days (or other time limit specified in policy) to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, the time limit is extended up to three times. BAM 130. A Notice of Case Action is sent when the client indicates a refusal to provide a verification, or the time period given has elapsed. BAM 130.

In the instant case, Claimant's hearing request clearly concerns the department's denial of her application for FAP *and* MA benefits. However, while the department's hearing summary and exhibits address the department's denial of Claimant's application for MA benefits, the department failed to provide any documentation in the hearing packet regarding the substantive basis for the department's determination that Claimant was not eligible for FAP benefits due to excess income – including, most importantly, the Bridges Gross Income Test Results, the Bridges FAP Net EDG Income Results and Excess Shelter Deduction Worksheet for the benefit period at issue. Without this additional documentation in the hearing packet, the Administrative Law Judge is unable to make a reasoned, informed decision regarding the issue at hand.

Regarding the department's denial of Claimant's application for MA benefits, both Claimant and Claimant's husband testified at length regarding their efforts to provide the needed Verification of Employment forms and paystubs from their employers, [REDACTED] and [REDACTED]. Likewise, Claimant's case worker, [REDACTED], and Ms. [REDACTED]'s supervisor, [REDACTED], outlined in their testimony the efforts they made to assist Claimant and Claimant's husband in complying with the required verifications, including meeting with Claimant on February 18, 2013 to explain precisely that which was still needed from Claimant (pay stubs from [REDACTED] for September, October, November 2012; pay stubs from [REDACTED] for November and December 2012; Verification of Employment forms from both employers) that had not been submitted to the department and had resulted in the denial of Claimant's application for MA benefits. Moreover, it is undisputed that, despite having been given two extensions of the original January 24, 2013 deadline for the required verifications, first extending the deadline to February 4, 2013 and again extending the deadline to February 7, 2013, Claimant did not provide the department with the completed Verification of Employments forms from [REDACTED] and [REDACTED] until March 11, 2013 and March 13, 2013, respectively, over a month after the department denied the application for MA benefits for failure to verify information – and Claimant has still not submitted pay stubs from [REDACTED] for September and October 2012, or from [REDACTED] from November and December 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, based on the competent, material, and substantial evidence presented during the May 15, 2013 hearing, the department acted in accordance with policy in denying Claimant's December 28, 2012 application for MA and retroactive MA benefits for failure to provide the required verifications. The Administrative Law Judge further finds that the department has failed to carry its burden of proof and did not provide information necessary to enable this Administrative Law Judge to determine whether the department followed policy as required under BAM 600 in denying Claimant's December 28, 2012 application for FAP benefits.

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 December 28, 2012 application for MA and retroactive MA benefits for failure to provide the required verifications. The department's actions in this regard are therefore **UPHELD**.

Furthermore, the Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record, is unable to decide whether the department acted in accordance with policy in denying Claimant's December 28, 2012 application for FAP benefits. Therefore, the department's denial of Claimant's December 28, 2012 application for FAP benefits is **REVERSED** and the department shall immediately reinstate and reprocess Claimant's December 28, 2012 application for FAP benefits and issue any supplemental checks if she is 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: May 17, 2013

Date Mailed: May 20, 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 effect 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/aca

cc:

