

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201339906
Issue No: 2000, 3008
Case No: [REDACTED]
Hearing Date: May 8, 2013
DHS SSPC WEST

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 April 3, 2013. After due notice, a telephone hearing was held on May 8, 2013. Claimant appeared by conference call and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's SSPC West 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 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 February 22, 2013, Claimant applied for FAP and Medical Assistance (MA) benefits.
2. On March 4, 2013, the department mailed Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide verification of her checking and savings accounts. This information was due to the department by March 14, 2013. (Department Exhibit 2)
3. On March 7, 2013, Claimant faxed to the department a print-out from [REDACTED] which was partly legible and referenced an account

balance but did not include Claimant's name or account number. (Department Exhibit 3)

4. On March 18, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her application for FAP benefits had been denied due to her failure to provide the required verifications. The department further informed Claimant that her application for MA benefits had been denied for the reason that the Adult Medical Program, the only program for which she was eligible, was currently closed to new enrollments. (Department Exhibit 4)
5. On April 3, 2013, the department received Claimant's hearing request, contesting the department's denial of her application for FAP and MA benefits.¹

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 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 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. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105.

¹ At the May 8, 2013 hearing in this matter, Claimant acknowledged that she understood and no longer disagreed with the department's actions regarding the denial of her application for MA benefits.

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. (Emphasis added).

A person cannot receive FAP benefits in more than one state for any month. BEM 222. Out-of-state benefit receipt or termination may be verified by one of the following: (i) DHS-3782, Out-of-State Inquiry; (ii) a letter or document from other state; or (iii) collateral contact with the state. BEM 222.

In the instant case, Claimant is disputing the department's closure of her FAP benefits for failure to provide the requested verifications.

At the May 8, 2013 hearing, Claimant testified that she timely faxed to the department the required verification of her checking account and indicated that, at the time of the facsimile transmittal, her name and the account number and balance were all legible to her on the document. Claimant further testified that after she faxed the department her bank statement, she called her case specialist and left her at least one voice mail requesting that she be advised if her submittal was sufficient verification, however her case specialist never returned her call. The department's representative did not recall whether Claimant had indeed attempted to reach her before the March 14, 2013 verification deadline.

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 8, 2013 hearing, Claimant made a reasonable effort to provide the required verification of her checking and savings accounts and the department failed to assist Claimant and, thus, improperly denied Claimant's February 22, 2013 application for FAP benefits for failure to verify necessary information.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied Claimant's February 22, 2013 application for FAP benefits for failure to verify necessary information.

Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate and reprocess Claimant's February 22, 2013 application for FAP benefits and issue supplement checks for any months Claimant 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: May 9, 2013

Date Mailed: May 9, 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/aca

cc:

