

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

**IN THE MATTER OF:**



Reg. No.: 201342531  
Issue No.: 1005, 2006, 3008  
Case No.: [REDACTED]  
Hearing Date: May 16, 2013  
County: Allegan

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 16, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's friend). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Family Independence Specialist).

**ISSUE**

Did the Department properly determine Claimant's Food Assistance Program (FAP), Family Independence Program (FIP), Medical Assistance (MA) and State Emergency Relief (SER) benefits?

**FINDINGS OF FACT**

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

1. On April 2, 2013, the Department mailed Claimant a Verification checklist (DHS-3503), which, for purposes of determining eligibility for FIP and MA programs, requested verifications for Claimant's checking account, stocks and disability information. The verifications were due April 12, 2013.
2. On April 12, 2013, the Department mailed Claimant a Medical Determination Verification Checklist (DHS-3503-MRT), which, for purposes of MA and State Disability Assistance (SDA), Claimant should provide medical information by April 12, 2013.

3. On April 17, 2013, Claimant requested a hearing regarding FAP, FIP, MA and SER.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify: (1) the action being taken by the department; (2) the reason(s) for the action; (3) the specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following: (1) denial of an application and/or supplemental payments; (2) reduction in the amount of program benefits or service; (3) suspension or termination of program benefits or service; (4) restrictions under which benefits or services are provided; (5) delay of any action beyond standards of promptness and (6) for FAP only, the current level of benefits or denial of expedited service. BAM 600.

The Department local office has 15 (fifteen) days from receipt of hearing request to do **all** of the following: (1) log the request; (2) contact the client or authorized hearing representative; (3) obtain and submit to MAHS verification of the authorized hearing representative's prior authorization, if needed; (4) arrange a prehearing conference<sup>1</sup> including all appropriate staff; (5) determine the nature of the complaint; and (6) forward the request with either a DHS-18A, Hearing Request Withdrawal, or a DHS-3050 to MAHS so that MAHS receives them by the 15 (fifteenth) day.

Policy requires the Department resolve disagreements and misunderstandings quickly at the lowest possible level to avoid unnecessary hearings. BAM 600. Upon receipt of a hearing request, the Department should schedule a prehearing conference with the client or authorized hearing representative and conduct a supervisory review. BAM 600

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<sup>1</sup> The conference need not be **held** within the 15 day standard.

at page 12. The client or authorized hearing representative is not required to phone or meet with any Department staff in order to have a hearing and any notice of prehearing conference must explain this. See BAM 600 page 12. **[IF APPLICABLE]** However, for MRT disputes the Department does not schedule a prehearing conference unless the client or authorized hearing representative requests one. BAM 600.

Department policy further discusses the importance of conducting a prehearing conference. See BAM 600 pages 12 and 13. The policy provides that the Department must assure that clients receive the services and assistance to which they are entitled. BAM 600. Concerns expressed in the hearing request should be resolved whenever possible through a conference with the client or authorized hearing representative rather than through a hearing. BAM 600.

A formal prehearing conference must take place as soon as possible after the local office receives the request unless: (1) the client or authorized hearing representative chooses not to attend the prehearing conference; or (2) a conference was held prior to receipt of the hearing request, and the issue in dispute is clear, and DHS staff fully understand the positions of both the department and the AHR or, if none, the client. BAM 600 p 13. All appropriate staff (for example, first-line supervisor, child support specialist, PATH representative, FIS/ES or OIG) must be consulted before the prehearing conference and should attend, as necessary. BAM 600 p 13.

When the Department conducts a prehearing conference, the Department must do all of the following: (1) determine why the client or authorized hearing representative is disputing the DHS action; (2) review any documentation the client or authorized hearing representative has to support his allegation; (3) explain the department's position and identify and discuss the differences; (4) determine whether the dispute can be resolved locally or requires MAHS to resolve; (5) mention to clients the availability of reimbursement for child care or transportation costs incurred in order to attend the hearing. BAM 600 p 13.

For each hearing not resolved at a prehearing conference, the Department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. BAM 600. The DHS-3050 narrative must include **all** of the following: (1) clear statement of the case action, including all programs involved in the case action; (2) facts which led to the action; (3) policy which supported the action; (4) correct address of the AHR or, if none, the client; and (4) description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

Clients and AHRs have the right to review the case record and obtain copies of needed documents and materials relevant to the hearing. BAM 600. The Department must send a copy of the DHS-3050 and all documents and records to be used by the department at the hearing to the client **and** AHR. DHS-4772, Hearing Summary Letter, may be used for this purpose. BAM 600. However, there are 3 (three) exceptions. **Exception #1:** The Department may **not** disclose the identity of any person who has reported information

relating to an alleged program violation. **Exception #2:** The Department **cannot** provide access to case records restricted by law or specific orders of a court; see BAM 310. **Exception #3:** Access to certain mental health records is restricted; see BAM 310. See BAM 600.

Department workers who attend the hearings, are instructed to **always** include the following in planning the case presentation: (1) an explanation of the action(s) taken; (2) a summary of the policy or laws used to determine that the action taken was correct; (3) any clarifications by central office staff of the policy or laws used; (4) the facts which led to the conclusion that the policy is relevant to the disputed case action; (5) the DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. BEM 600.

In the instant matter, Claimant clearly requested a hearing concerning the following four programs (which are summarized below): Family Independence Program (FIP), Food Assistance Program (FAP), Medical Assistance (MA) and State Emergency Relief (SER).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by 1993 AACS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Here, the Department must address each of Claimant's programs implicated in his request for hearing. First, the Department contends that Claimant was already active for FAP at the time he requested a hearing, but the Department failed to include any

documents in support of this contention. With regard to MA and FIP/SDA, the Department contends that these programs were closed because Claimant failed to turn in requested verifications. Claimant, on the other hand, insists that he turned in all requested verifications.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For FIP, FAP, SDA, and CDC, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. For MA and AMP, the client has 10 days to provide requested verifications (unless policy states otherwise). BAM 130. For MA and AMP only, if the client cannot provide the verification despite a reasonable effort, the department worker may extend the time limit 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.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. A review of this case reveals that the Department failed to properly follow BAM 600 with regard to Claimant's request for a hearing concerning FAP and SER. If, in fact, Claimant was active for FAP at the time of the request for hearing, the Department should have included some document which would support this contention. Instead, the Department included a Notice of Case Action dated April 2, 2013, which closed Claimant's FAP case effective May 1, 2013 for failure to provide verification of stocks. But the Department did not provide the "stocks" verification that gave rise to the FAP closure. The verifications in this matter only covered MA and the "cash program." With regard to FAP, the Department did not act properly.

The next issue concerns Claimant's request for a hearing regarding FIP and MA. The Department has presented evidence to show that Claimant failed to timely and properly

return the verifications. Specifically, the Department requested the following: Medical Examination Reports (DHS-0049), Medical Social Questionnaires (DHS-0049), Authorizations (DHS-1555), Activities of Daily Living (DHS-0049-G) and Reimbursement Authorizations (DHS-3975). Claimant's assertion that he "turned everything in" to the Department is insufficient. This Administrative Law Judge finds that the testimonies of the Department representatives are more credible than Claimant and his witness in this regard.

Finally, Claimant requested a hearing concerning SER, but the Department failed to properly address this in the hearing summary or in the hearing packet.

Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department acted properly with regard to FIP/SDA and MA, but did not act properly with regard to FAP and SER.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department is **AFFIRMED-IN-PART** and **REVERSED-IN-PART**.

The Department properly closed Claimant's FIP/SDA and MA cases for failure to turn in requested verifications. However, the Department did not properly close Claimant's FAP and failed to present any evidence in response to Claimant's request for hearing concerning SER.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- Initiate a redetermination of Claimant's FAP case back to the date of closure.
- If applicable, redetermine Claimant's most recent SER application.
- To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental benefits.

IT IS SO ORDERED.

/s/ \_\_\_\_\_  
C. Adam Purnell  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 20, 2013

Date Mailed: May 21, 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 90 days of the filing of the original request. (60 days for FAP cases)

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 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 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.

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

CAP/aca

cc:

