

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201355799
Issue No: 3008
Case No: [REDACTED]
Hearing Date: August 1, 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 June 24, 2013. After due notice, a telephone hearing was held on August 1, 2013 via three-way conference call. Claimant appeared 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 timely 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 May 1, 2013, Claimant applied for FAP benefits.
2. On May 6, 2013, the department mailed Claimant a Verification Checklist (DHS 3503), requesting, among other things, verification of Claimant's checking account and home ownership. This information was due to the department by May 16, 2013.
3. While Claimant timely submitted verification of his checking account, Claimant failed to provide the department with the required verification of his home ownership by the May 16, 2013 deadline.
4. On June 20, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his application for FAP benefits had

been denied due to his failure to timely provide the required verification of his home ownership.

5. On June 28, 2013, the department received Claimant's hearing request, contesting the department's denial of his application for FAP benefits.
6. On June 28, 2013, Claimant also submitted his property tax records, verifying his home ownership.

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 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. 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 the instant case, Claimant is disputing the department's denial of his application FAP benefits for failure to provide the required verification of his home ownership.

At the August 1, 2013 hearing and in his hearing request, Claimant testified that he timely submitted the required verification of his home ownership to his case specialist, Emily Kopen, on June 18, 2013 via facsimile to the fax number, 517-346-9888. Claimant further testified that he sent Ms. Kopen an email on June 24, 2013 to the email address of kopean@michigan.gov, advising her of his facsimiled documents on June 18, 2013. However, upon further analysis of Claimant's June 24, 2013 email to Ms. Kopen (Claimant's Exhibit A), it is clear that not only did Claimant have an incorrect email address for Ms. Kopen but he also indicated in the email that he faxed Ms. Kopen his verification documentation to an incorrect fax number, 517-401-9888. Accordingly, it is undisputed that Claimant's submittal of the required verification to Ms. Kopen on June 28, 2013 was the earliest at which the department received his verification. Moreover, Ms. Kopen acknowledged that, given Claimant's obvious reasonable effort in attempting to timely submit the required verification, Claimant's FAP benefits should have been reinstated effective June 28, 2013 upon the department's receipt of Claimant's required verification and Ms. Kopen agreed to such reinstatement.

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 August 1, 2013 hearing, because Claimant demonstrated that he made a reasonable effort to timely provide the required verification, the department improperly failed to reinstate Claimant's FAP benefits effective June 28, 2013 following the department's receipt of Claimant's required verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly failed to reinstate Claimant's FAP benefits effective June 28, 2013 following the department's receipt of Claimant's required verification. Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate Claimant's FAP benefits effective June 28, 2013 and issue supplement checks for any months he did not receive the correct amount of benefits if he 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: August 2, 2013

Date Mailed: August 5, 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

201355799/SDS

SDS/hj

cc:

