

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

IN THE MATTER OF:

Reg.

No: 201357438
Issue No: 2006, 3008
Case No: [REDACTED]
Hearing Date: August 14, 2013
Macomb County DHS

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 July 10, 2013. After due notice, a telephone hearing was held on August 14, 2013 at which Claimant appeared and provided testimony. The department was represented by [REDACTED] an assistance payments supervisor, and [REDACTED] an eligibility specialist, both with the department's Macomb County office.

ISSUE

Whether the department properly closed Claimant's Food Assistance Program (FAP) benefits and Medicaid Program (MA) benefits for failure to timely 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. Claimant was a recipient of FAP and MA benefits at all times pertinent to this hearing.
2. On June 2, 2013, Claimant submitted her completed redetermination paperwork, wherein she indicated that her husband has a checking account with [REDACTED] with an account number ending in [REDACTED]. Claimant also submitted along with her redetermination paperwork verification of her husband's checking account with [REDACTED] with an account number ending in [REDACTED] (Department Exhibit 1)

3. On June 5, 2013, Claimant's case specialist conducted a redetermination interview with Claimant, at which time Claimant confirmed the accuracy of the accounts reported in her redetermination paperwork.
4. On June 17, 2013, the department mailed Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide the department by June 27, 2013 the following:
Please provide your most recent bank statements for [REDACTED] bank account with [REDACTED] and [REDACTED] bank account with [REDACTED] by the due date. Please also provide verification of all income. [REDACTED] employment/income with FAS Hotels needs to be verified as well as [REDACTED] employment/income with [REDACTED] and the [REDACTED]. Enclosed are verifications for the employers to complete. (Department Exhibit 2)
5. On June 26, 2013, Claimant provided the department with the required verifications of income as well as her husband's checking account with [REDACTED] with account number ending in [REDACTED]. However, Claimant did not provide the department with the requested verification of her husband's checking account with [REDACTED] with an account number ending in [REDACTED]" (Department Exhibit 3)
6. On July 5, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her FAP and MA benefits cases would be closed effective July 1, 2013 and August 1, 2013, respectively, due to her failure to provide the required verification of her husband's checking account with [REDACTED] with an account number ending in [REDACTED] (Department Exhibit 4)
7. On July 10, 2013, the department received Claimant's hearing request protesting the closure of her FAP and MA benefits cases. (Hearing Request)

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).

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 administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the 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. The department should send a negative action notice when (i) the client indicates a refusal to provide a verification; or (ii) the time period given has elapsed and the client has not made a reasonable effort to provide it. 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, because Claimant failed to provide the department with the requested verification of her husband's checking account with [REDACTED] with an account number ending in [REDACTED]" the department could not determine Claimant's continued eligibility for the FAP and MA programs and consequently closed Claimant's case.

At the August 14, 2013 hearing, Claimant testified that her husband's checking account with PNC Bank ending with account number [REDACTED] is in fact the same and interchangeable with the checking account previously identified by Claimant in her redetermination paperwork as her husband's checking account with [REDACTED] with an account number ending in [REDACTED]. Claimant further explained that when [REDACTED] became [REDACTED] in 2011, Claimant's husband was issued a new account number for his checking account with number ending [REDACTED] but that it is the same

account. Claimant further testified that, following her submittal of what she believed to be all required verifications and before the department's closure of her case, Claimant contacted her case specialist and asked whether she had everything she needed and also asked her to contact Claimant if she needed anything further. Claimant further testified that her case specialist did not contact her again prior to the closure of her case. Claimant acknowledged, however, that she first advised the department regarding the discrepancy and interchangeability of the two account numbers on July 10, 2013, after her case closed and when she submitted her hearing request.

The department's representative, [REDACTED] acknowledged having spoken with Claimant after receiving Claimant's verifications but indicated that she did not call her back after determining that Claimant did not provide what she believed to be all required verifications.

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 14, 2013 hearing, because the Claimant clearly made a reasonable effort to provide what she believed to be what the department's Verification Checklist required (her husband's checking account statement with [REDACTED] and because the department made no effort to advise her that the department still needed verification of her husband's checking account with [REDACTED] [REDACTED] with an account number ending in [REDACTED] the department did not act in accordance with policy in closing Claimant's FAP and MA benefits case for failure to provide the required verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in closing Claimant's FAP and MA benefits case for failure to provide the required verification.

Therefore, the department's closure of Claimant's FAP and MA benefits case is **REVERSED** and the department is ordered to do the following within 10 days of the mailing of this decision and order:

1. Immediately reinstate Claimant's FAP and MA benefits for the benefit periods of July 1, 2013 and August 1, 2013, respectively.
2. Issue any supplemental checks to Claimant if she is otherwise entitled to them.

It is **SO ORDERED**.

/s/

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

Date Signed: August 16, 2013

Date Mailed: August 19, 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.

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.

A request for a rehearing or reconsideration 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

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SDS/hj

cc:

