

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

IN THE MATTER OF:

Reg.

No: 20146259

Issue No: 2006, 3008, 6015

Case No:

Hearing Date: November 7, 2013

Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 7, 2013 from Lansing, Michigan. Claimant appeared and provided testimony. The department was represented by [REDACTED] a family independence manager, and [REDACTED] a triage specialist with the PATH program, both of whom are with the department's Muskegon County office.

ISSUE

Whether the department properly denied Claimant's application for Food Assistance Program (FAP) benefits, and Medical Assistance (MA) benefits, and Child Development and Care (CDC) benefits due to a failure to verify necessary information?

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 June 10, 2013, Claimant submitted an application for FAP, MA, CDC, and Family Independence Program (FIP) benefits. (Department Exhibit 8)
2. On June 11, 2013, the department mailed Claimant a Verification Checklist (DHS 35 03), requesting verification of Claimant's income, CDC provider assignment, CDC needed for employment, and school attendance. This information was due to the department by June 21, 2013.
3. On July 9, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) notifying Claimant that her application for FAP, MA, and CDC benefits had been denied due to her failure to verify required information.

4. On October 3, 2013, Claimant requested a hearing contesting the department's denial of her application for FAP, MA, and CDC benefits.¹ (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 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Child Development and Care (CDC) program was established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The department provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400. 5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department policy provides that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. This includes completion of the necessary forms. BAM 105. Department policy further states that CDC payments will not be made until all eligibility and need requirements are met and care is being provided by an eligible provider. BEM 706. Eligibility and need requirements cannot be

¹ In her hearing request, Claimant also requested a hearing regarding the department's denial of her application for FIP benefits – however, during the hearing, Claimant testified that she was no longer challenging the department's negative action in this regard.

determined until all forms have been received by the department. BEM 702. 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.

In the instant case, Claimant is disputing the department's denial of her application for FAP, CDC, and MA benefits due to her failure to verify necessary information by the June 21, 2013 deadline.

At the November 7, 2013 hearing, the department testified that the Muskegon County office has no record of having received Claimant's required verifications by the June 21, 2013 deadline. In contrast, Claimant credibly testified that, as detailed in her hearing request supplement, she submitted a packet of documents to the Muskegon County office on June 20, 2013 that contained the following: employment verification form signed by her employer, a copy of all paystubs from the beginning of Claimant's employment in March 2013, day care information, housing information, and her custody agreement from her divorce. Claimant further testified that she attempted on several occasions before the denial of her application to contact her case worker, S. Harris, but Ms. Harris never returned her phone calls or voicemails. Claimant further testified that she only learned after the department denied her application for assistance that Ms. Harris had been on an extended medical leave for some time.

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). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

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 November 7, 2013 hearing, because

Claimant credibly demonstrated a reasonable effort to timely provide the required verifications and it is undisputed that Claimant's case worker failed to return Claimant's calls or otherwise assist her, the department did not act in accordance with policy in denying Claimant's application for FAP, CDC, and MA 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 did not act in accordance with policy in denying Claimant's application for FAP, CDC, and MA benefits for failure to verify necessary information. Accordingly, the department's action in this regard 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 and reprocess Claimant's application for FAP, CDC, and MA benefits for the benefit period effective June 10, 2013.
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 Corrigan, Director
Department of Human Services

Date Signed: November 14, 2013

Date Mailed: November 15, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

SDS/hj

cc:

