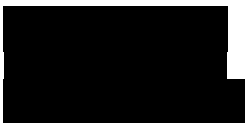


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2013-17038
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 17, 2013
County: Genesee-02 County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 January 17, 2013, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED] [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Did the Department properly deny the Claimant's Food Assistance Program (FAP) application?

FINDINGS OF FACT

I find as material fact, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses:

1. On October 9, 2012, the Claimant applied for FAP benefits.
2. On October 9, 2012, the Department sent the Claimant a verification checklist. The checklist items were due by October 19, 2012.
3. On October 17, 2012, the Claimant faxed to the Department the asset verification information.
4. Between October 17, 2012 and October 23, 2012, the Claimant's mother attempted to contact the Claimant's Department worker several times and left several voice messages regarding the verifications. Specifically, the Claimant's mother indicated the asset information was submitted and if there were any problems they would like a return call.
5. At no point in time between October 17, 2012 and October 23, 2012 did the Claimant's worker contact either the Claimant or the Claimant's mother.

6. On October 29, 2012, the Department denied the Claimant's FAP application.
7. On December 10, 2012, the Claimant requested a hearing.

CONCLUSIONS OF LAW

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

The FAP [formerly known as the Food Stamp (F S) 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 1999 AC, R 400.3001 through Rule 400.3015.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. Clients must completely and truthfully answer all questions on forms and in interviews. (BAM 105).

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. (BAM 105).

The Department is to provide the Claimant with 10 calendar days to comply with the verification request and should send a negative action notice when the Claimant indicates a refusal to provide a verification, or the time period given has elapsed and the client HAS NOT MADE A REASONABLE EFFORT to provide it. (BAM 130).

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.² 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.³

During my review of the record, I discovered the shelter documentation was sent to the Department passed the due date. However, the Department witness indicated the application was denied solely because the Department had not received the asset verifications and not because of the late shelter verifications.

I have carefully considered and weighed the testimony and other evidence in the record and find the Claimant more likely than not attempted to submit the asset verifications but the attempt was unsuccessful because the Bank's fax machine was n't working. If

¹ *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).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

the printer wasn't working, the fax machine probably wasn't working. However, I also find the Claimant attempted to contact the Department several times prior to the due date to inform them that they had faxed over the requested asset information and that if there was a problem to give them a return call. This was not done. Because this was not done and because I cannot find where the Claimant refused to provide the verifications or failed to make a reasonable effort to provide it, I have no choice but to **reverse** the Department's actions in this matter

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did not act properly.

Accordingly, the Department's decision is **REVERSED** for the reasons stated on the record.

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

1. Initiate a redetermination of the Claimant's eligibility for FAP benefits beginning October 9, 2012 and to issue retroactive benefits if otherwise eligible and qualified.

/s/
Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: January 17, 2013

Date Mailed: January 18, 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 receipt 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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CAA/las

cc:

