

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201319762
Issue No: 2006; 3008
Case No: [REDACTED]
Hearing Date: January 30, 2013
Ontonagon County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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. After due notice, a telephone hearing was held on January 30, 2013. The claimant appeared and provided testimony, along with her fiancé, Robert Johnson. The department witnesses were Renee Picotte, Case Manager; Bobbie Jo Ferguson, Director of DHS local office; Ian Gill, Office of Inspector General Regulation Agent; [REDACTED], Michigan State Police Trooper, Wakefield Post; [REDACTED], Ontonagon County Sheriff Trooper.

ISSUE

Did the department properly closed the claimant's Food Assistance Program (FAP) and Medicaid (OHK and HKP) benefits for failure to 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. The claimant was receiving FAP and MA (OHK and HKP).
2. On October 30, 2012, the claimant and her fiancé, [REDACTED], were mailed a letter indicating that information had been received by DHS that claimants owned the [REDACTED] in Bruce Crossing and had failed to report income/assets to DHS. Claimants were advised to reply within 10 days. An investigation referral was made to the Office of Inspector General on November 7, 2012.
3. On November 13, 2012, the claimant was issued a Redetermination form (DHS-1010), which was due back to the department by December 3, 2012.

4. The completed form was returned to the department on December 3, 2012. The only source of income identified was self-employment income for [REDACTED] that was 5% of each transaction of selling/buying items online for other people. The amount budgeted was \$ [REDACTED] monthly income.
5. Through the investigation, it was determined that the claimants were not reporting their income/assets as required.
6. The department mailed the claimants a Notice of Case Action (DHS-1605) on November 28, 2012, which closed their FAP and MA benefits effective January 1, 2013.
7. The claimants submitted a hearing request on December 10, 2012.

CONCLUSIONS OF LAW

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

The Medical Assistance (MA) program is established by 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 (DHS or 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 Bridges Reference Manual (RFT).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM 105.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM 105.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. BAM 130.

Timeliness of Verifications

FIP, SDA, CDC, FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. BAM 130.

Exception: For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

- . the client indicates 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.

Note: For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the

verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130.

MA and AMP

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130.

In this case, the department determined the claimant's were not properly reporting their income/assets after an investigation showed information provided by the claimants was contradictory, unclear, inconsistent and incomplete. The claimants had repeatedly indicated to the department that the only income they had was approximately \$ [REDACTED] of monthly income that was self-employment income from [REDACTED] for buying/selling items online. During the investigation and again during this Administrative Hearing, it became abundantly clear that this was not accurate.

Michigan State Police Trooper [REDACTED] testified that he had a conversation with [REDACTED] back in the fall of 2012 in which [REDACTED] indicated that he had purchased the Alaskan Connection bar for \$ [REDACTED] cash and he and [REDACTED] were now running the bar. While [REDACTED] and [REDACTED] both testified that they did work at the bar, they denied owning the bar (instead claiming that [REDACTED] father owns the bar) and insisted they weren't able to be paid any wages due to low cash flow, but only made some tips. It must be noted that tips from their employment were never reported as income. [REDACTED] denies that he ever told the MSP Trooper that he owned the bar and stated that the "trooper is lying."

Bank statements for [REDACTED] were subpoenaed and submitted for this hearing. These statements covered the period of January, 2012 through September, 2012. These records show many more paypal account transactions than would equal the claimed income of \$20 monthly. Further, the monthly deposits into the accounts (checking/savings) are \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED]. This hardly seems the account of someone who has no income.

Finally, during the hearing, the claimants admitted that they had a marijuana grow operation and were selling medical marijuana and had not reported any of this income to DHS. This Administrative Law Judge pointed out that this is income under department policy and that the claimants must report this income to the department. It

is clear that the claimants were not forthcoming with their income and assets in this case and failed to properly report their circumstances. When the department tried to verify information that was contradictory, unclear, inconsistent and incomplete, the claimants still did not provide accurate information. Therefore, this Administrative Law Judge finds that the department properly closed the claimant's case for failure to verify the required information.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's Food Assistance Program (FAP) and Medicaid (OHK and HKP) benefits for failure to return the required verifications.

Accordingly, the department's actions are **UPHELD**. SO ORDERED.

/s/ _____
Suzanne L. Morris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 13, 2013

Date Mailed: February 13, 2013

NOTICE: Administrative Hearings 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. Administrative Hearings 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 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.

201319762/SLM

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

SLM/cr

cc:

