

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201324639
Issue No: 3008
Case No: [REDACTED]
Hearing Date: February 20, 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 January 17, 2013. After due notice, a three-way telephone hearing was held on February 20, 2013. The 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 properly closed Claimant's Food Assistance Program (FAP) benefits case for failure to 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 October 24, 2012, Claimant applied for FAP benefits. (Department Hearing Summary)
2. On November 20, 2012, the department mailed Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide verification of her checking account, savings account, loss of employment, home rent, and wages, salaries, tips, and commissions. In doing so, the department did not specify the timeframe for Claimant's receipt of wages, the department did not specify which loss of employment must be verified by Claimant, and the department did not specify that Claimant's home rent must be verified with a signed lease. The department advised Claimant that her failure to provide the requested information by November 30, 2012 may result in the denial, decrease, or cancellation of her benefits. (Department Exhibits A, B)

3. Claimant timely provided verifications of her checking and savings accounts her loss of employment with [REDACTED] effective October 1, 2012, and her home rent (with an unsigned lease). Claimant failed to timely provide her last pay stub with [REDACTED] and failed to timely provide verification of her loss of employment with [REDACTED]. (Department Exhibit A)
4. On January 8, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that, effective October 24, 2012, her FAP benefits were being closed due to her failure to provide the required verifications. (Department Exhibit C)
5. On January 16, 2013, Claimant requested a hearing contesting the department's closure of her FAP benefit case.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC 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 department's standard of promptness (SOP) for determining FAP eligibility begins the date the department's correct local office receives an application/filing form, with minimum required information. BAM 115, p. 12. Thereafter, the expedited due date is six calendar days after the application date and the regular FAP due date, or SOP, is 29 calendar days after the application date. BAM 115, p. 13. FAP benefits must be **available** by the seventh day for expedited and the thirtieth day for regular FAP. BAM 115, p. 13. Available means clients **must** have a Bridge card and access to their benefits by the seventh day for expedited and the thirtieth day for regular FAP benefits. BAM 115, p. 13.

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. . 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.

The Client is allowed 10 calendar days to provide the verifications requested by the department. If the Client cannot provide the verification despite a reasonable effort, the department may extend the time limit at least once. The department sends a negative action notice to the Client 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.

In the instant case, Claimant is disputing the department's termination of her FAP benefits for failure to provide the requested verifications.

At the February 20, 2013 hearing, the department's representative testified that the department received Claimant's application for FAP benefits on October 24, 2012 and interviewed Claimant on November 5, 2012 but did not seek needed verifications from Claimant until November 20, 2012, with a deadline of November 30, 2012, or after the required SOP timeframe of 29 calendar days. The department's representative further acknowledged that, despite timely receiving most but not all of Claimant's required verifications, due to department error, the department did not notify Claimant until January 8, 2013 that her FAP application had been closed due to deficiencies in her verifications. The department's representative further acknowledged that because of the department's delay, the department deprived Claimant of the opportunity to correct these deficiencies and complete the application process after denial but within 60 days after the application date, as provided in BAM 115. See BAM 115, pp. 18-19.

Claimant testified that, because the Verification Checklist did not specify how far back she must provide verification of loss of employment, she did not know that the department required verification of her loss of employment with [REDACTED] in April 2011. Claimant further testified that had she known that the department's November 20, 2012 Verification Checklist required paystub verification from more than 30 days prior to November 20, 2012, she would have provided it. However, according

to Claimant, she believed that she had complied with the Verification Checklist and it was only when she was notified on or about January 8, 2013 that her FAP application had been denied that she learned of the deficiencies, by which time it was too late for her to submit her October 17, 2012 paystub information.

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 hearing, the department's failure to process Claimant's October 24, 2012 FAP application in accordance with the standard of promptness required by BAM 115 deprived Claimant of the opportunity to make a reasonable effort to provide the required verifications.

Consequently, the Administrative Law Judge finds the department improperly denied Claimant's October 24, 2012 application for FAP benefits for failure to provide the requested verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied Claimant's October 24, 2012 application for FAP benefits for failure to provide the requested verifications. Accordingly, the department's actions are **REVERSED** and the department shall immediately reprocess Claimant's October 24, 2012 application for FAP benefits and issue supplement checks for any months she did not receive the correct amount of benefits if she 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: February 21, 2013

Date Mailed: February 22, 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 effect 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

SDS/cr

cc:

