

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201328770
Issue No: 1005
Case No: [REDACTED]
Hearing Date: March 13, 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 February 13, 2013. After due notice, a three-way telephone hearing was held on March 13, 2013. Claimant's authorized representative, [REDACTED], of 2060 Woodrow Wilson Boulevard, West Bloomfield, Michigan 48324, appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist with the department's SSPC West office.

ISSUE

Whether the department properly denied Claimant's application for Food Independence Program (FIP) benefits?

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 December 11, 2012, Claimant applied for FIP benefits as well as Food Assistance Program (FAP) and Medical Assistance (MA) benefits and, in doing so, indicated that his language is Arabic.
2. On December 19, 2012, the department mailed Claimant an Appointment Notice (DHS 170) advising him that he must participate in a telephone interview on January 4, 2013 in order to determine his eligibility for the FIP program. The Appointment Notice did not include any instructions in Arabic. (Department Exhibit A)
3. Claimant did not participate in his January 4, 2013 telephone interview.

4. On January 19, 2013, the department notified Claimant that his application for FIP benefits had been denied for failure to verify necessary information. (Department Exhibit A)
5. On February 5, 2013, Claimant's authorized representative requested a hearing on Claimant's behalf protesting the department's denial of Claimant's application for FIP benefits.¹ (Request for a Hearing)

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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. **Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English.** BAM 105 (Emphasis added).

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

¹ Pursuant to Claimant's authorized representative's acknowledgement that Claimant did not suffer a loss of FAP or MA benefits, the hearing proceeded only on the issue of the department's denial of Claimant's application for FIP benefits and specifically Claimant's loss of FIP benefits during the period December 11, 2013 through February 15, 2013.

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 his December 11, 2012 application for FIP benefits for failure to comply with the interview requirement.

At the March 13, 2013 hearing, the department's representative testified that the case comment history in Claimant's case indicates that Claimant was originally scheduled for an interview appointment on December 18, 2012 however the case was extended at that time due to the department's inability to reach Claimant via the "language line."

The department's representative further testified that, despite the department's awareness that Claimant's first language is in Arabic, the Appointment Notice mailed to Claimant on December 19, 2012 advising him of his rescheduled interview appointment on January 4, 2013 was entirely in English. The department's representative further testified that the case comment history in Claimant's case is silent regarding what, if any, attempts were made by the department on January 4, 2013 to again reach Claimant via the "language line."

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 failed to properly process Claimant's December 11, 2012 FIP application in accordance with the requirement of BAM 105 that particular sensitivity be shown to clients who are not fluent in English, thus depriving Claimant of the opportunity to make a reasonable effort to comply with the interview requirement.

Consequently, the Administrative Law Judge finds the department improperly denied Claimant's December 11, 2012 FIP application 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 December 11, 2012 FIP application for failure to provide the requested verifications.

Accordingly, the department's actions are **REVERSED** and the department shall immediately reprocess Claimant's December 11, 2012 FIP application and issue supplement checks for any months he did not receive the correct amount of benefits if he 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: March 15, 2013

Date Mailed: March 15, 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

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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:

