

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201329330
Issue No.: 1005, 2006, 3008
Case No.: [REDACTED]
Hearing Date: March 13, 2013
County: Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 13, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] (Claimant) and [REDACTED] [REDACTED] (Claimant's mother). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager).

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's case for Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant was receiving FAP, FIP and MA benefits.
2. Claimant was provided with a Redetermination (DHS-1010) which scheduled Claimant for a telephone interview on December 6, 2012 at 2:00p.m.
3. Claimant did not call the Department prior to December 6, 2012.
4. The Department worker assigned to Claimant's case called Claimant on December 6, 2012 but Claimant did not answer. The Department worker left a message requesting Claimant return the telephone call.

5. The Department worker again Claimant for the telephone interview on January 7, 2013 and left a voicemail message requesting Claimant return the call.
6. Claimant returned the January 7, 2013 message, but the Department worker was not available. Claimant left a voicemail message.
7. The Department worker again called Claimant on January 10, 2013 and left a voicemail message requesting Claimant return the call. Claimant returned the call and left a voicemail message.
8. On January 18, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP, FIP and MA cases effective February 1, 2013 because she failed to complete the required redetermination interview.
9. On February 4, 2013, Claimant filed a hearing request, protesting the closure.

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 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For FIP, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. But if the CDC client cannot provide the verification despite a reasonable effort, the department shall extend the time limit at least once. BAM 130. For MA, the client has 10 days to provide requested verifications (unless policy states otherwise). BAM 130. For MA, if the client cannot provide the verification despite a reasonable effort, the department worker may extend the time limit 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 department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130.

Generally speaking, the client is obligated to obtain required verification, but the department worker must assist if the client needs and requests help. BAM 130. If neither the client nor the department worker can obtain verification despite a reasonable effort, the department worker must use the best available information. BAM 130. If no evidence is available, the department worker should use his or her best judgment. BAM 130.

The Department of Human Services must periodically redetermine an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. BAM 210. BAM 210 provides that an in-person interview is not required as a condition of eligibility.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210. If the redetermination packet is not logged in by the negative action cutoff date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. BAM 210.

BAM 210 discusses the requirements for conducting the interview. For FIP, the Department shall do the following: (1) obtain a complete redetermination/review packet from the client; (2) compare the redetermination/review document to the existing DHS-1171 or previous DHS-1010 and other case data and reconcile any discrepancies and ensure anything omitted is completed; (3) review the verifications and reconcile discrepancies; (4) refer the client to view online the following sections of the DHS-1010 information booklet: (i) Things You Must Do; (ii) Important Things To Know; (iii) Repay Agreements; (iv) Information About Your Household That Will Be Shared. BAM 210.

The claimant is required to comply with the Department in providing the verification materials necessary to allow the department to determine initial or ongoing eligibility. BAM 105. In this case, Claimant returned her Redetermination form, but failed to

participate in the redetermination interview. Department policy indicates that a complete redetermination is necessary at least every 12 months. BAM 210.

In this case, the Department mailed Claimant a Redetermination Packet (DHS-1010) which scheduled a telephone interview on December 6, 2012 at 2:00p.m. The DHS-1010 also indicated, "Call your specialist **before** your appointment date and time if you cannot keep the appointment." The Department provided documentation that a Department worker called Claimant on December 6, 2012 but Claimant did not return the call. Claimant, on the other hand, testified that she attends school daily and did not receive a telephone call from the Department on December 6, 2012. Rather than close her FIP and MA cases, the Department attempted to call Claimant to schedule the interview on January 7, 2013 and January 10, 2013, but Claimant did not answer. Claimant states that she left voicemail messages with the Department after she received the messages.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

Here, the Administrative Law Judge finds that the Department's position is more persuasive than Claimant's. The DHS-1010 sufficiently placed Claimant on notice that she had a telephone interview scheduled on December 6, 2012. Claimant is responsible to cooperate with the Department in order to keep her FAP, MA and FIP benefits. Claimant should have either been available for the December 6, 2012 telephone interview or contacted the Department immediately to reschedule the Redetermination telephone interview. Claimant should not have waited until after the Department called her again in January, 2013 to contact the Department. She should have contacted the Department as soon as she received the DHS-1010. Because Claimant failed to contact the Department promptly, the Department was unable to conduct an interview with the client, so the benefit period was allowed to expire. As a result, no information was provided to allow the Department to. It is Claimant's responsibility to cooperate with the Department so that the Department may determine her current benefits.

The Claimant has failed to make a reasonable effort to contact the Department so that a telephone interview may be conducted within the required time period. Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's case for FAP, FIP and MA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly.

Accordingly, the Department's decision is **AFFIRMED** for the reasons stated above.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 19, 2013

Date Mailed: March 20, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

CAP/cr

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