

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201338179
Issue No: 2006, 3008, 6015
Case No: [REDACTED]
Hearing Date: May 2, 2013
Macomb County DHS (12)

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 April 2, 2013. After due notice, a telephone hearing was held on May 2, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Macomb County office.

ISSUE

Whether the department properly closed Claimant's Medical Assistance (MA) benefits, Food Assistance Program (FAP) benefits, and Child Development Care (CDC) benefits due to Claimant's failure to provided required verifications?

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 a recipient of FAP, CDC, and MA benefits at all times relevant to this hearing.
2. In April 2013, the department conducted a redetermination of Claimant's eligibility for benefits, which included a review of Claimant's April 2012 redetermination report of a checking and/or savings account with [REDACTED] with an account number ending in "[REDACTED]." (Department Exhibits 2, 3)
3. On March 1, 2013, the department mailed Claimant a Verification of Assets form (DHS-20), requesting that Claimant provide verification of her checking and savings account with [REDACTED], with account number ending in "[REDACTED]." The form was to be completed by

Claimant's financial institution and requested, among other things, the current balance on the account, as well as the date and amount of the last withdrawal. The form contained no deadline for the submittal of the requested verification. (Department Exhibit 4)

4. On March 11, 2013, Claimant provided the department with a Verification of Deposit statement from [REDACTED]. The statement referenced an account number different than that which was referenced in the department's Verification of Assets form and the statement failed to provide any information regarding the checking and/or savings account balance for the account number referenced in the department's Verification of Assets form. (Department Exhibit 5)
5. On March 25, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) advising Claimant that, effective April 7, 2013, her CDC benefits would be closed for the reason that gross income exceeds the limit for the program and because the parent does not have a need for CDC services due to employment, education or family preservation reasons. The Notice further advised Claimant that, effective May 1, 2013, her MA benefits would be closed due to her failure to provide the verification of her checking and savings accounts. The Notice did not address the closure of Claimant's FAP benefits. (Department Exhibit 6)
6. On March 26, 2013, Claimant provided the department with a Verification of Deposit statement from [REDACTED] [REDACTED] [REDACTED] [REDACTED] dated March 26, 2013. The statement indicated that Claimant had an open checking and savings account, both with account number ending in "[REDACTED]," and described the current balances for each account. (Department Exhibit 1)
7. On April 2, 2013, Claimant submitted a hearing request protesting the department's closure of her CDC and FAP benefits.¹ (Request for a Hearing)

¹ While Claimant's hearing request fails to indicate that she is also challenging the department's closure of her MA benefits effective April 1, 2013, Claimant testified at the hearing that she is indeed challenging the closure of her MA benefits as set forth in the department's March 25, 2013 Notice of Case Action – and the department's representative testified that it was the department's understanding that Claimant's hearing request challenged the closure of both her CDC and MA benefits.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code 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 Title 7 of the Code of Federal Regulations (CFR). The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of CFR. The Department of Human Services (DHS or department) administers these programs pursuant to MCL 400.10, *et seq.*, and pursuant to Mich Admin Code R 400.30001-3015, and MCL 400.105, respectively. Department policies for these programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The Child Development and Care (CDC) program was established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The department provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department policy provides that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. Department policy further provides that clients must take actions within their ability to obtain verifications and Department staff must assist when necessary. BAM 130, BEM 702. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130. A client must be given 10 calendar days (or other time limit specified in policy) to provide the requested verification. If the client cannot provide the verification despite a reasonable effort, the department should extend the time limit at least once. BAM 130. The department should send a negative action notice when (i) the client indicates a refusal to provide a verification; or (ii) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing

request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department.
- The reason(s) for the action.
- The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself; see BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing on any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600.

For each hearing not resolved at a prehearing conference, the department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. The DHS-3050 narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

During the hearing, the participants may give opening statements. BAM 600. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the

position of the local office. BAM 600. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the Department's position. BAM 600. Department workers who attend the hearings are instructed to always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

In the instant case, Claimant's hearing request clearly indicates that she requested a hearing regarding the closure of her FAP and CDC benefits – and both parties testified to understanding that Claimant also challenged the department's closure of her MA benefits. However, the department failed to provide any explanation in the hearing summary regarding the closure of Claimant's FAP benefits. And while a Bridges Case-Search/Summary in the hearing packet indicated that Claimant's FAP benefits closed on February 28, 2013, the department's representative was unable to provide any information at the May 2, 2013 hearing regarding the basis for the closure of Claimant's FAP benefits. Without such information, the Administrative Law Judge is unable to make a reasoned, informed decision regarding whether the department acted properly in closing Claimant's FAP benefits.

Regarding the department's closure of Claimant's CDC and MA benefits, the department's representative testified at the May 2, 2013 hearing that Claimant's CDC and MA benefits closed, effective April 7, 2013 and May 1, 2013, respectively, due to Claimant's failure to provide any information regarding the checking and/or savings account balance for the account number referenced in the department's Verification of Assets form.

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

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, because the department failed to indicate a deadline by which Claimant was required to submit verification of checking and savings account balance, and because Claimant ultimately submitted the required verification on March 26, 2013 before the effective dates of the closure of her CDC and MA benefits (April 7, 2013 and May 1, 2013), the department did not act in accordance with policy in closing Claimant's CDC and MA benefits for failure to provide the required verification.

Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof and did not provide information necessary to enable this Administrative Law Judge to determine whether the department followed policy as required under BAM 600 in closing Claimant's FAP benefits. This Administrative Law Judge further finds that the department did not act in accordance with policy in closing Claimant's CDC and MA benefits for failure to provide the required verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in closing Claimant's FAP benefits. Therefore, the department's closure of Claimant's FAP benefits is **REVERSED** and the department shall redetermine Claimant's eligibility for FAP benefits in accordance with the applicable department policy and award Claimant any supplemental checks if she is otherwise entitled to them.

The Administrative Law Judge further decides that the department did not act in accordance with policy in closing Claimant's CDC and MA benefits for failure to provide the required verification. Accordingly, the department's actions in this regard are **REVERSED** and the department shall immediately reinstate and redetermine Claimant's eligibility for CDC and MA benefits for the benefit periods of April 7, 2013 and May 1, 2013, respectively, and shall issue supplement checks for any months Claimant did not receive the correct amount of such benefits if she was otherwise entitled to them.

It is SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 3, 2013

Date Mailed: May 3, 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 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 affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

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A request for a rehearing or reconsideration 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/aca

cc:

