

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201338211
Issue No: 3019
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 March 27, 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 determined Claimant's Food Assistance Program (FAP) benefit eligibility?

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 February 22, 2013, Claimant applied for FAP benefits. In her application, Claimant indicated that she had moved to Michigan on December 1, 2012 from Arizona. Claimant further indicated that she had received FAP benefits from Michigan in the past and that she had received FAP benefits from another state on May 4, 2011. (Department Exhibit 3)
2. At no time during the processing of Claimant's application for FAP benefits did the department request verification from Claimant or from the state of Arizona regarding the status of Claimant's prior receipt of benefits from the state of Arizona.

3. On March 21, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her FAP benefits had been denied because she received the same program benefits in another state for the benefit period. (Department Exhibit 2)
4. On March 27, 2013, Claimant requested a hearing contesting the department's denial of her application for FAP 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 the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The department administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), 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.

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. 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. (Emphasis added).

A person cannot receive FAP benefits in more than one state for any month. BEM 222. Out-of-state benefit receipt or termination may be verified by one of the following: (i) DHS-3782, Out-of-State Inquiry; (ii) a letter or document from other state; or (iii) collateral contact with the state. BEM 222.

In the instant case, Claimant is disputing the department's denial of her application for FAP benefits based on the department's determination that she had received the same program benefits in another state for the same benefit period.

At the May 2, 2013 hearing, Claimant testified that, consistent with the information reported in her assistance application, she was not receiving FAP benefits from the state of Arizona at the time she applied for FAP benefits in Michigan. Claimant further testified that the last month for which she received FAP benefits from the state of Arizona was October 2012. The department's representative acknowledged that, at the time the department processed Claimant's application for FAP benefits, the department failed to take any steps to verify that Claimant was not receiving FAP benefits in another state – but, rather, the department simply relied upon the information reported in Claimant's assistance application. However, this information, as further acknowledged by the department's representative, actually indicated that Claimant was *not* receiving FAP benefits from another state as of February 2013.

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 May 2, 2013 hearing, the department improperly denied Claimant's February 22, 2013 application for FAP benefits because the department failed to verify Claimant's receipt of the same program benefits in another state for the benefit period.

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 February 22, 2013 application for FAP benefits because the department failed to verify Claimant's receipt of the same program benefits in another state for the benefit period.

Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate and reprocess Claimant's February 22, 2013 application for FAP benefits and issue supplement checks for any months Claimant 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: May 2, 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 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 affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

201338211/SDS

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/aca

cc:

