

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-44185
Issue No: 3008;6008
Case No: [REDACTED]
Hearing Date: May 30, 2013
Washtenaw County DHS #20

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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. After due notice, an in-person hearing was held on May 30, 2013. Claimant personally appeared and testified. The department was represented by Assistance Payments worker [REDACTED] [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application based upon its determination that claimant failed to provide verification information in a timely manner?

FINDINGS OF FACT

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

1. Claimant was a Food Assistance program (FAP) and Child Development and Care (CDC) benefit recipient.
2. Claimant's case was scheduled for redetermination.
3. On April 1, 2013, a verification checklist was sent to claimant for self-employment information, checking account information and loss of employment forms due April 11, 2013.
4. On April 9, 2013, claimant returned checking account and self-employment verification forms.
5. On April 12, 2013, the department caseworker sent claimant notice that her case was scheduled to close April 12, 2013 for failure to turn in verification of unearned income for her children, along with other verification information.

6. On April 22, 2013 claimant returned Loss of Employment forms along with a request for a hearing.

CONCLUSIONS OF LAW

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 or her claim for assistance has been denied. MAC R 400.903 (1). 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. BAM 600.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Child Development and Care program is established by Titles IVA, IV E 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 of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Relevant policy can be found at PAM, Item 130, which instructs caseworker to tell the client what verification is required, how to obtain it and the due date. The client must obtain required verification but the caseworker must assist if the client requests assistance.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, page 1.

If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information. BEM, Item 130, page 1.

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BEM, Item 130, page 5.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center.

There are two types of written notice: **adequate** and **timely**.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

Adequate Notice

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). Adequate notice is given in the following circumstances:

All Programs

- Approval/denial of an application.
- Increase in benefits. BAM, Item 220, pages 1-2

In the instant case, claimant is contesting the cancellation of her FAP and CDC benefits. Claimant alleges that she did send in all requested verifications and that her children did not have unearned income. The department representative was not the case worker who worked on the file and could not testify from personal knowledge as to the facts of this case. Therefore, this Administrative Law Judge finds that claimant's testimony is credible under the circumstances. The department's determination must be reversed.

The department has not established by the necessary, competent, substantial and material evidence contained in the record that claimant failed or refused to provide verification evidence in this case, or that she was sent appropriate notice of negative action in accordance with department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the department has not established by a preponderance of the evidence that claimant failed or refused to provide verification information.

Accordingly, the department's prior decision is **REVERSED**.

The department is ORDERED to reinstate claimant's FAP and CDC case to the date of closure. The department shall conduct a redetermination of claimant's eligibility for benefits from April 2013 forward. The department shall notify claimant of her eligibility or lack thereof for the requested benefits.

/s/ _____
Landis

Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 5, 2013

Date Mailed: June 5, 2013

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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 error, or other obvious errors in the hearing decision that effect the substantial rights of the 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LYL/las

cc:

