

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201352380
Issue No: 3008
Case No: [REDACTED]
Hearing Date: July 11, 2013
Muskegon County DHS

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 May 24, 2013. After due notice, a telephone hearing was held on July 11, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an assistance payments supervisor, and [REDACTED], an eligibility specialist, both with the department's Muskegon County office.

ISSUE

Whether the Department of Human Services (department) properly closed Claimant's Food Assistance Program (FAP) benefits for failure to return the required verification?

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 March 25, 2013, Claimant applied for FAP benefits for himself and his son. (Department Exhibit 1)
2. On May 7, 2013, the department mailed Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide verification of his son's savings account. This information was due to the department by May 17, 2013. (Department Exhibits 3, 4)
3. Claimant failed to provide the department with the required verification by the May 17, 2013 deadline.

4. On May 18, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his FAP benefits case would be closed effective June 1, 2013 due to his failure to timely provide the required verification of his son's savings account. (Department Exhibits 5, 6, 7)
5. On May 24, 2013, Claimant requested a hearing contesting the department's closure of his FAP benefit case.
6. On June 10, 2013, Claimant submitted the required verification of his son's savings account.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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.

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

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).

In the instant case, Claimant is disputing the department's closure of his FAP benefits for failure to provide the required verification

At the July 11, 2013 hearing, the department's representative and Claimant's case specialist, [REDACTED], testified that at no time prior to the May 17, 2013 deadline for Claimant's submittal of the required verification did Claimant call her and request an extension of that deadline or otherwise indicate that he was having difficulty and required assistance in obtaining the required verification. [REDACTED] further testified, however, that Claimant did contact her on May 21, 2013 regarding the required verification and she returned his call on May 23, 2013 and advised him that if he submitted the required verification by May 31, 2013, his FAP case could still be reinstated as it would be within the negative action period. [REDACTED] further testified that Claimant did not submit the required verification until June 10, 2013, by which time it was too late to reinstate his FAP case as it was after the negative action period.

In his testimony, Claimant disagreed that his specialist advised him on May 23, 2013 that he only had until May 31, 2013 to submit the required verification as Claimant recalled that he was told he had until June 10, 2013 to do so. Claimant further acknowledged, however, that despite being aware of the May 17, 2013 deadline for the required verification, he did not contact his specialist until May 21, 2013 to advise of his difficulty obtaining the required verification.

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 July 11, 2013 hearing, Claimant failed to timely submit the required verification and failed to timely contact his specialist to advise of his difficulty obtaining the verification. Accordingly, the department acted in

accordance with policy in closing Claimant's FAP benefits case effective June 1, 2013 for failure to timely provide the required verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in closing Claimant's FAP benefits case effective June 1, 2013 for failure to timely provide the required verification. Accordingly, the department's action in this regard is **UPHELD**.

IT IS SO ORDERED.

/s/_____

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

Date Signed: July 12, 2013

Date Mailed: July 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 affect the substantial rights of Claimant;

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- 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

