

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25305
Issue No(s): 2007, 4007
Case No.: [REDACTED]
Hearing Date: March 6, 2014
County: Gratiot

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on March 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Lead Worker [REDACTED] [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for State Disability Assistance (SDA) and Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. Claimant applied for SDA and MA on January 4, 2014. (Exhibit 1 Pages 5-26.)
2. On January 24, 2014, the Department mailed a Verification Checklist (VCL) to Claimant requiring Claimant to verify her husband's bank accounts, pension, and real estate. (Exhibit 1 Pages 29-30.) Her responses were due by February 3, 2014.
3. Also on January 24, 2014, the Department mailed a Notice of Case Action (NCA) informing Claimant that her application was denied because her "Group's countable income exceeds the limit for this program." (Exhibit 1 Pages 37-38.)
4. Claimant had previously applied for assistance and in an email dated October 16, 2013 the Department had become aware that Claimant's husband was receiving \$ [REDACTED] per month in Social Security benefits, and \$ [REDACTED] in a Veterans Administration pension. (Exhibit 1 Page 1.)

5. On February 9, 2014 Claimant requested a hearing, stating she had been separated from her husband since December 6, 2013.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Verification was mailed to the Claimant at his address of record. The evidence also establishes that the Department denied Claimant's application on the same day the VCL was mailed. Clearly, the Department took action before the time for verification had elapsed.

The Claimant testified that her husband had moved out of their home on January 23, 2014, and that he is fixing up a "trailer" (believed to be a manufactured home) that she owns so he can live there. Claimant testified that she plans to move out of the home where she is living, and move into a motel in another county. Frankly, the undersigned is not persuaded that the Claimant and her husband were living apart from one another when she submitted her application. She is not fully convincing in her testimony that they are truly living separate from each other now. There is no dispute that her husband's income exceeds the amount that would make Claimant eligible for MA and SDA. Nonetheless, the Department acted hastily when it denied her application on the same day that it mailed the VCL.

In light of the Claimant's testimony regarding her and her husband's current and planned living arrangements, it is conceivable that she can substantiate that they are no longer living together. It is determined, however, that they were cohabiting at least as late as January 23, 2014.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it Claimant's application for SDA and MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Claimant's MA and SDA benefit eligibility, effective February 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 7, 2014

Date Mailed: March 7, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed. The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

DJT/las

cc:

