

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201411560
Issue No.: 2006, 3000, 4003
Case No.: [REDACTED]
Hearing Date: December 10, 2013
County: Branch

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 December 10, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's friend). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance and State Disability Assistance (SDA) due to failure to properly return verifications?

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 MA and SDA benefits alleging disability on April 9, 2013.
2. On April 22, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) which requested verifications by May 2, 2013.
3. The Department granted Claimant an extension to return the verifications until May 12, 2013.
4. Claimant did not turn in the verifications by May 12, 2013.

5. On May 20, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied her application for MA and SDA for failure to return verifications of Retirement IRA or Keogh Account.
6. Claimant requested a hearing concerning FAP, MA and SDA on May 30, 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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

For MA, the client has 10 days to provide requested verifications (unless policy states otherwise). BAM 130. For MA only, if the client cannot provide the verification despite a reasonable effort, the department worker **may** extend the time limit 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.

Here, the Department representative testified that the Department sent Claimant a verification checklist requesting verification for “statement of value from issuer/holder/plan administrator (minus early withdrawal penalty).” Both parties agreed that on May 2, 2013 (the due date), Claimant contacted the Department and requested an extension to obtain the verifications. The Department extended the due date to May 12, 2013. Claimant testified that she did not have a 401(k), but that she had a 457 account. Despite the error, Claimant stated she knew the Department intended to obtain information concerning her 457 account. Claimant said that she called the “State of Michigan” (not the DHS) and was advised that she only needed to provide a copy of her 1099 form in response to the VCL. Then Claimant, on May 3, 2013, provided the Department with a copy of a 1099 form. The Department representative testified that the 1099 form was unacceptable as the Department was seeking confirmation from Claimant’s 457 administrator/distributor/manager that she had a \$0.00 balance. In this regard, the Department representative stated that Claimant needed to show that the account had been “zeroed out.” The parties both agreed that they had a conversation about the 1099 form, but neither party could recall the exact date of this conversation. Claimant eventually turned in the requested verifications when she later reapplied for assistance on or about June 26, 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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department properly granted Claimant’s request for an extension on May 2, 2013. BAM 130 provides only that the department worker **may** extend the time limit up to three times for purposes of MA. Although the Department’s VCL asks for Claimant’s 401k information rather than for information regarding her 457, this Administrative Law Judge finds that this oversight was harmless error. In fact, Claimant stated that she was aware that the Department actually sought information from her 457. Here, Claimant failed to properly obtain the requested 457 verification based on the VCL which clearly requested verification in the form of a “statement of value from issuer/holder/plan administrator (minus early withdrawal penalty).” The information contained on the IRS 1099 form Claimant provided fails to comply with the plain language of the VCL. However, Claimant’s failure to provide the requested

verifications by the May 12, 2013 extended due date permitted the Department to justifiably deny her application for MA and SDA.

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 acted in accordance with Department policy when it denied Claimant's application for MA and SDA.

Shortly after commencement of the hearing, Claimant testified that she mistakenly requested a hearing concerning Food Assistance Program (FAP) on the request for hearing form. Claimant stated that she did not wish to proceed with a hearing concerning FAP. Therefore, Claimant withdrew the Request for Hearing concerning FAP in this matter. The Department agreed to the dismissal of the FAP hearing request.

DECISION AND ORDER

Accordingly, the Department's decision regarding MA and SDA is **AFFIRMED**.

Pursuant to Claimant's withdrawal of the hearing request, the Request for Hearing concerning FAP is **DISMISSED**.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 10, 2013

Date Mailed: December 11, 2013

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;

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- 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

CAP/aca

cc:

