

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2008-25496
Issue No: 2006; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 21, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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, a telephone conference hearing was held on January 21, 2009.

ISSUE

Did the Department of Human Services (DHS) properly close claimant's Medical Assistance (MA) and Food Assistance Program (FAP) cases on the grounds that claimant failed to cooperate with the department's verification request?

FINDINGS OF FACT

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

(1) At all relevant times prior to the negative actions herein, claimant was a beneficiary of the MA and FAP welfare programs with the Michigan DHS.

(2) On 6/9/08, the DHS received an Automated Find and Fix (AFF) report. The local office was alerted to changes in earnings affecting three members of claimant's household for the MA and FAP. The earnings had not been reported. See Exhibit 3.

(3) On 6/11/08, the DHS issued a Verification Checklist (DHS-3503) requesting that claimant complete a Verification of Employment form for two members of the household. The department only included one form in the enclosures. The department also requested any new employment information for claimant. The verifications were due by 6/21/08. Exhibit 4.

(4) Claimant did not contact or deliver any verifications to the department by the due date of 6/21/08.

(5) On 6/24/08, the department issued closure notices for MA and FAP for the following reason: "You failed to verify or allow the agency to verify necessary information." Exhibits 1 and 2.

(6) Claimant called the department on a number of occasions after the due date including 6/25/08, 7/1/08, and 7/2/08.

(7) The record was held open in this case for claimant to provide evidence he argued would show that the requested verification on one member of the household was delivered. On 1/28/09, the undersigned Administrative Law Judge received a fax showing that claimant's spouse's employer verified income on a form dated 8/8/08 and faxed to the department on 8/8/08--a month and a half after the due date.

(8) On 7/8/08, claimant filed a hearing request.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10,

et seq., and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 DHS is under strong federal and state mandates to ensure that individuals who are recipients of public assistance have necessary documentation in their files to establish eligibility. Failure to have information in the file which would establish eligibility can result in significant and severe financial penalties on the department.

In this case, the department received information which indicated a discrepancy in claimant's eligibility for three members of the household. Unrefuted evidence at the administrative hearing was that at the time the department received the conflicting information, claimant had failed to report the information. Under general verification policy and procedure cited below, a recipient of assistance is required to report changes within 10 days. Claimant failed to comply with his notice responsibility.

General verification policy and procedure applicable to the case herein states in part:

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. PAM, Item 105, p. 5.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

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

Obtain verification when:

- . required by policy. PEM 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 without prior approval from central office.
- . information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

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

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

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. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

Under PAM 110, the department is required to resolve any discrepancies when the department receives inconsistent information. Pursuant to this requirement, the department issued a Verification Checklist to claimant to request information to resolve the discrepancy. See Exhibit 4.

Unrefuted evidence on the record is that claimant did not respond to the department's request by the 6/21/08 due date. Claimant did make a number of attempts to contact the department on 6/25, 7/1, and 7/2. Claimant also sent verification to the undersigned Administrative Law Judge that his wife's employer verified employment on 8/8/08. All of these are irrelevant. The due date was 6/21/08. Claimant failed to deliver the verifications by the due date or request an extension.

The purview of an Administrative Law Judge is to make a determination if the department complied with its policy and procedure and that the policy and procedure is not contrary to law. This Administrative Law Judge has reviewed the evidence in this file and determines that the department correctly complied with its policy. Thus, the department's closure must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's closure of claimant's MA and FAP was correct and is UPHELD.

/s/ _____
Janice G. Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 6, 2009

Date Mailed: February 6, 2009

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 mailing date of the rehearing decision.

[REDACTED]

cc:

[REDACTED]