

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: 2008-25970
Issue No: 2006; 4003; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 25, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's representative's [hereinafter claimant] request for a hearing. After due notice, a three-way telephone conference hearing was held on June 25, 2009.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P), Food Assistance Program (FAP), and State Disability Assistance (SDA) application on the grounds that claimant did not comply 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) On February 15, 2008, claimant filed an application for MA, FAP, and SDA with the Michigan DHS.

(2) On 2/21/08, the DHS issued a Verification Checklist. The checklist did not contain a due date. The checklist does indicate that claimant is requested to attend an interview on 3/3/2008.

(3) The individual presenting the department's case was involved in the case until 3/2/08. At that time, the department representative issued a 3/3/08 Denial Notice indicating a denial for MA, SDA, and FAP for failure to provide verification and attend an in-person interview for all three programs.

(4) The individual who had personal knowledge of this case testified she left the employ of the DHS at this time.

(5) The representative presented evidence of a confirmed fax issued to the DHS on 3/2/08, enclosing necessary verifications and requesting an extension. Exhibit C1. The individual present at the administrative hearing testified that she did not receive the fax, but verified that the fax number was the correct DHS fax number. The individual who took possession of the file was not at the administrative hearing or available for testimony and/or cross-examination.

(6) The department failed to communicate with ██████ regarding the 3/2/08 fax and request for an extension.

(7) The representative testified that her office never received a copy of the denial notice. The department had no knowledge or information or evidence that the denial notice was issued to the representative.

(8) On 5/27/08, 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 State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. 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).

Relevant verification policy and procedure 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.

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.

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.

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.

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

ELIGIBILITY DECISIONS

Denials

All Programs

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. PAM, Item 115, p. 15.

In this case, the individual present at the administrative hearing was a credible witness.

However, as already indicated, this individual left the employ of the DHS at the time of the denial herein. The day before the denial, the representative faxed a request for an extension. This request would be within the ten days, which is the general amount of time the department allows individuals for delivering verification(s). However, the verification checklist failed to indicate a due date.

After careful review of the substantial and credible evidence on the whole record, this ALJ finds that the department did not follow its policy and procedure with regards to verification requests and cooperation issues. Specifically, pursuant to the policy found at PAM Item 115, p. 13, claimant and claimant's representative did not refuse to cooperate in the application process. Rather, and in fact, the representative brought forth evidence of a confirmed fax with regards to enclosed verifications and a request for an extension. The department could not testify as to the whereabouts of the fax. The individual who presumably would have received the fax was not at the administrative hearing or available for testimony and/or cross-examination.

Nor did claimant or claimant's representative fail to comply, which would trigger a negative action notice pursuant to the requirements found at PAM Item 130, p. 4.

For these reasons, and for the reasons stated above, the department's actions are reversed.

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 incorrect.

Accordingly, the department's denial is REVERSED.

The department is ORDERED to reinstate claimant's February 15, 2008 application for MA, FAP, and SDA. The department is ORDERED to issue a Verification Checklist for any outstanding verification(s). The department shall follow its policy and procedure with regards to extension(s). The department shall issue a Notice of Disposition with regards to all three programs to claimant's representative and/or issue any supplemental benefits to claimant to which claimant is entitled should claimant receive a favorable decision. Should claimant dispute the calculation and/or any of the dispositions on these programs, claimant will have a right to a hearing for 90 days from the date of the notice. The department is ORDERED to notify claimant's representative. It is SO ORDERED.

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

Date Signed: July 7, 2009

Date Mailed: July 8, 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.

JS/cv

cc:

