

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: 2008-30678
Issue No: 2006; 3008; 6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 22, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on January 22, 2009. Claimant and her [REDACTED] appeared and testified.

ISSUES

- (1) Did the Department of Human Services properly close Claimant's Medical Assistance (MA) case due to income fraud?
- (2) Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) case due to income fraud?
- (3) Did the Department of Human Services properly close Claimant's Child Development and Care (CDC) case due to income fraud?

FINDINGS OF FACT

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

(1) Claimant was an ongoing recipient of Medical Assistance (MA), Food Assistance Program (FAP), and Child Development and Care (CDC) benefits.

(2) On May 12, 2008, Claimant submitted a letter to her Department caseworker. The letter reported a change of address, reported an increase in hours worked, requesting approval of 90 hours bi-weekly child care, and reported out of pocket child care expense of [REDACTED] be added to her food stamp budget. Claimant also submitted a letter from [REDACTED]. The letter was signed by [REDACTED] and stated that: Claimant was originally hired [REDACTED]; Claimant had been employed without interruption since then; and beginning [REDACTED], Claimant will again be working 40 hours per week at a rate of [REDACTED] bi-weekly.

(3) On June 19, 2008, Claimant submitted another letter from [REDACTED] and signed by [REDACTED]. The phone number on this letterhead was different, [REDACTED]. This letter stated Claimant was earning [REDACTED] bi-weekly and that [REDACTED] would be on leave for the next eight weeks. The letter stated that if further information was needed [REDACTED] should be contacted at [REDACTED].

(4) On August 11, 2008, the Department received a Verification of Employment (DHS Form 38) form [REDACTED]. The form was signed on August 4, 2008 by [REDACTED]. (June 19 + 8 weeks = August 14) The phone number on the form was [REDACTED]. (New letterhead number and contact number given for [REDACTED] on June 19 letter.)

(5) On August 27, 2008, the caseworker called the original [REDACTED] [REDACTED] in order to verify Claimant's employment. That number was not in service. The caseworker then made a trip to the address reported for the employer and found a dilapidated residence with a padlocked front door.

(6) On August 27, 2008, Claimant was sent a Benefit Notice Form (DHS-176) stating that her "Medical, Food, and Child day care is closed due to income fraud." In the reason(s) box the form states, "Your income cannot be verified therefore your case is closed."

(7) On September 5, 2008, Claimant submitted a request for hearing. In the request for hearing, Claimant stated she was still hired by [REDACTED] acting as an independent contractor, doing 40 hours per week for [REDACTED].

(8) On September 16, 2008, the State Office of Administrative Hearings and Rules received the hearing packet.

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 Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

This hearing is in response to Claimant's request for hearing submitted September 5, 2008. While there are numerous details about Claimant's employment situation that raise suspicion, the only issue being considered in this hearing is whether the Department's closure of her cases was proper. Department policy provides the following guidance for caseworkers. The Department's policies are available on the internet through the Department's website.

PAM 130 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.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

Types of Verification

All Programs

Use documents, collateral contacts or home calls to verify information.

A **collateral contact** is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification.

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.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

Discrepancies

All Programs

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source.

PAM 220 CASE ACTIONS

DEPARTMENT POLICY

All Programs

You must process the following case actions:

- Initial applications and reapplications (PAM 115).
- Redeterminations (PAM 210).
- Reinstatements (PAM 205).

You must evaluate each change reported to determine if it affects eligibility.

Changes in circumstances may be reported by the client, via computer tape matches, through quality assurance (QA) reviews, or by other means.

Classify any change in benefits as either a positive or negative action and input on CIMS or ASSIST.

A **positive action** is a DHS action to approve an application or increase a benefit.

A **negative action** is a DHS action to deny an application or to reduce, suspend or terminate a benefit.

NOTICE OF CASE ACTIONS

All Programs

Notify client in writing of positive and negative actions. For **FAP Only**, see **“Actions Not Requiring Notice”** in this item. Written notices are of two types: **adequate** and **timely**.

A notice of case action must specify the following:

- The action(s) being taken by the Department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.

- The conditions under which benefits are continued if a hearing is requested.

Adequate Notice

An adequate notice is a written notice sent to the client at the same time an action takes effect (i.e., not pended). Give adequate notice in the following circumstances:

All Programs

- Approval/denial of an application.
- Increase in benefits.

FIP, SDA, MA, CDC and AMP Only

- A recipient or his legal guardian or authorized representative requests in writing that the case be closed.
- Factual information confirms a recipient's death.
- You verify that a recipient has been approved for assistance in another state.
- You verify that an eligible child, or in MA, an eligible group member of any age, has been removed from the home as a result of court action.

FIP, SDA, AMP and FAP Only

- An intentional program violation (IPV) disqualifies the only eligible member or reduces/terminates other members' benefits. See the "DISQUALIFICATION" section in PAM 720 for notice procedures and forms.

FIP and MA Only

- Denial of request for medical transportation.

CDC

- The client or provider reports, orally or in writing, that a child is no longer in the care of that provider.
- The client or provider reports, orally or in writing, a need for fewer authorized hours.

- You verify that a child member of the Program Group was voluntarily placed in foster care.
- Information verifies the provider is no longer eligible to receive payments.

MA and TMAP Only

- Case opening with a deductible or patient-pay amount.
- Decrease in post-eligibility patient-pay amount.
- Recipient removed due to his eligible status in another case.
- Divestment penalty when level of care (LC) code is blank or 20.
- Addition of MA coverage on a deductible case.
- Increase in medical benefits.

FAP Only

- Negative action results from information on the DL-060, Child Support Information Report.
- The change was reported in writing and signed by an eligible group member, and you can determine the new benefit level or ineligibility based solely on the written information.

Note: When deleting a member, an application he files on his own **or** the updated application of a group he joins is considered a change reported in writing by an eligible member of the former group.

- Reliable information indicates the group will leave the state before the next issuance.
- Changes reported on a DHS-1046, Semi-Annual Contact Report.

Timely Notice

All Programs

Give timely notice for a **negative action** unless policy specifies adequate notice or no notice. See **“Adequate Notice”** and for **CDC and FAP only, “Actions Not Requiring Notice”** in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action.

Actions Not Requiring Notice

FAP Only

Do **not** send a notice of case action in the situations below. The action must take effect no later than the month after the change.

- Reliable information indicates the group left the state.
- Reliable information indicates all members died. Reliable sources generally include a newspaper, friends or relatives of the group, or other agencies.
- Supplementation over multiple months to restore lost benefits is completed (see PAM 406).
- From a joint FIP/SDA and FAP application, the FAP benefit began first and the FAP approval letter indicated the benefit might decrease if FIP/SDA were later approved.
- The FAP benefit varies from month to month within the benefit period due to changes anticipated when the case was certified, and the group was so notified at that time.
- Benefits are reduced for failure to repay an FAP overissuance that resulted from IPV (PAM 720) or client error (PAM 715). Also see PAM 725.
- The FAP certification period has expired.
- The group voluntarily requests closure in writing.

CDC Provider

Certificate/Notice of Authorization

Notify CDC providers in writing when you:

- Add a new authorization for that provider.

- Shorten or lengthen an authorization period for that provider.
- Increase or decrease the authorized hours for that provider.
- Increase or decrease the department pay percent for that provider.
- Close the CDC case.

The evidence submitted (Benefit Notice Form DHS-176 dated 08/27/2008) shows that the Department closed Claimant's Food Assistance Program (FAP), Medical Assistance (MA), and Child Development and Care (CDC) cases with only adequate notice. Program Administrative Manual (PAM) 220 cited above lists the specific circumstances which allow for providing only adequate notice. The conclusion of a caseworker that the Claimant is committing fraud does not fit into any of the circumstances listed. While the situation was being referred to the Office of Inspector General (OIG), the caseworker's conclusion had not been verified by an OIG investigation and no Intentional Program Violation (IPV) had been established. Any case action by the Department on [REDACTED] was still under the provisions of Program Administrative Manual (PAM) 220. PAM 220 requires that timely notice be provided for any negative action the Department intended to take.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly close Claimant's Medical Assistance (MA), Food Assistance Program (FAP), and Child Development and Care (CDC) cases due to income fraud.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that Claimant's Medical Assistance (MA), Food Assistance Program (FAP), and Child Development and Care (CDC) cases be reinstated in accordance with Program Administrative Manual (PAM) 205.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 2, 2009

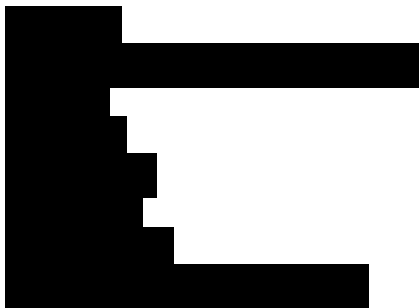
Date Mailed: February 3, 2009

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 receipt date of the rehearing decision.

GFH

cc:

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