

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: 2009-11022

Issue No: 2006; 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 5, 2009

Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 hearing was held on March 5, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Food Assistance Program (FAP) and Medicaid (MA) benefits in September, 2008?

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 a FAP and MA recipient when her caseworker received an e-mail from [REDACTED] Agent with the Office of Inspector General, requesting information on her case as to how there are shelter and utility obligations but very little or no income in the household (Department's Hearing Summary).

2. Claimant's caseworker then mailed her a Verification Checklist, DHS-3503, on September 4, 2008 with a due date of September 15, 2008, asking for paycheck stubs starting with August 1, 2008, records of self employment income and expenses for June, July and August, 2008, child support or alimony for June, July and August, 2008, military allotment, sick pay, Workers Compensation or disability benefits, [REDACTED] ([REDACTED]) and advising her to bring/send records of all income that she has. An interview date and time of September 15, 2008 at 9:30 A.M., was also indicated on this form (Department's Exhibit #1).

3. Verification Checklist also asked for verification of assets, household expenses, and stated under Other "need income verification for all living in the household".

4. Claimant failed to show or call for the September 15, 2008, appointment. Claimant's caseworker then took action to terminate claimant's FAP and MA benefits effective September 27, 2008, due to her failure to verify information (Department's Exhibits #2 and 3).

5. Claimant called on September 24, 2008, at 1:55 P.M., and left a message with a telephone number. Claimant's caseworker returned her call on September 25, 2008, at 9:00 A.M., and after a second try reached her.

6. Claimant was asked how she pays her shelter and utility obligations and stated that she has been receiving child support plus her family and friends gave her money, and also she had braided hair averaging \$ [REDACTED] per month (Department's Exhibits #4-4c).

7. Claimant was told that she needs to provide signed and dated notes from family and friends as to how much they give her a month plus a note signed and dated from her about hair braiding. Claimant was given until September 26, 2008, no later than 5:00 P.M., to hand deliver this documentation to the caseworker or her case would close.

8. On September 26, 2008, at 5:07 P.M., claimant left a voice mail message saying she really does not have any income (Department's Exhibit #5).

9. Claimant's FAP and MA case closed on September 27, 2008, even though department had received her hearing request on September 25, 2008. Hearing testimony indicates that the claimant started receiving FAP and MA benefits again in October, 2008, so no break in benefit receipt occurred.

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).

Departmental policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

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.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. 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.

Income reporting requirements are limited to the following:

- . Earned income
 - .. Starting or stopping employment
 - .. Changing employers
 - .. Change in rate of pay
 - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month

- . Unearned income
 - .. Starting or stopping a source of unearned income
 - .. Change in gross monthly income of more than \$50 since the last reported change. 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.

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.

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.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

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.

In claimant's case she reported paying rent of \$88 per month along with utility obligation, but no income except child support of \$ [REDACTED] per month she was receiving as of January, 2008, and that stopped sometimes prior to September, 2008. It is unknown why the caseworker that approved claimant's MA and FAP benefits previously did not question how the claimant was meeting her living expenses. It is not logical or possible for an individual to be meeting their bills without any income, and this type of situation is certainly a reason for questioning information claimant provided to the department. This type of situation is an indication that a client is not reporting income he/she receives and requires that the department ask for additional information/verification. OIG Agent did so beginning of September, 2008, by notifying claimant's caseworker that additional information was needed from the claimant.

Claimant's caseworker mailed the claimant a Verification Checklist on September 4, 2008, giving her 11 days to provide income information/verification, and also scheduling an interview for September 15, 2008. This action was in accordance with departmental policy quoted above. Claimant did not show or call for the interview. Caseworker's notes taken contemporaneously with the telephone call to the claimant on September 25, 2008, shows that the claimant stated she braids hair for \$ [REDACTED] and also gets money from family and friends. Claimant failed to provide verification of this income even though she was advised by a Verification Checklist mailed to her on September 4, 2008, that she had to do so. Claimant's caseworker therefore was required by departmental policy to take action to terminate claimant's MA and FAP benefits, and did so.

Claimant's hearing testimony is that she does not have hardly any income, that she never told her caseworker that she was getting \$ [REDACTED] per month for braiding hair, and that she only does her mother's hair every other month and gets \$ [REDACTED] for doing so. When asked how she is meeting her rental and utility obligations, claimant states that she pays her rent by returning bottles/cans to stores. As the claimant's rent alone is [REDACTED] per month, this would mean that the claimant returns around 880 bottles/cans per month to stores. Claimant also stated that she has transportation problems, but when asked how she manages to deliver such large number of returnable bottles/cans to stores without transportation, states that her mother returns them and gives her money she receives.

This Administrative Law Judge finds claimant's testimony that she lives off bottle returns and pays her rent and other personal needs in addition to providing for her 18 year-old son who lives with her with such funds dubious at least. However, the hearing issue at hand is not whether the claimant is providing false information, but whether she provided verification of

income to the department that she was required to provide. Even if the claimant is living off bottle returns stores do provide receipts for such returns, and claimant could have provided such to the department. In addition, claimant testified her mother returns the bottles and gives her money from such returns, and she could have easily obtained a statement to that effect in the 23 days given her to do so, from September 4, 2008 to September 27, 2008. Claimant could have also easily obtained a statement from her mother about payments for hair braiding for which she claims she receives \$ [REDACTED] every other month for. Claimant however failed to do so and left a message for her caseworker that she had no income immediately prior to closing date of her case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FAP and MA benefits in September, 2008.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 12, 2009

Date Mailed: March 13, 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.

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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.

IR [REDACTED]

cc:

[REDACTED]