

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: 2009-1142
Issue No: 2006; 3008; 4003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 7, 2009
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 May 7, 2009. The claimant personally appeared and provided testimony, along with his sister, Tonya Mahler.

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) and State Disability Assistance (SDA) application and terminate the claimant's Food Assistance Program (FAP) benefits for failure to turn in requested verifications 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. The department completed a hearing summary that indicated the department believed the claimant was living with his wife and not his parents. The hearing summary indicates that the claimant was asked to provide verification of his residence and that his MA and

SDA application was denied and his FAP benefits terminated because he didn't verify where he lived.

2. The department had no exhibits in the hearing materials. The only items included were the hearing summary, the hearing request and the notice of hearing.

3. When this Administrative Law Judge requested the documents that would support the department's allegations, the department failed to produce any documents.

CONCLUSIONS OF LAW

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 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).

Department 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.

FAP Only

Do **not** deny eligibility due to failure to cooperate with a verification request by a person **outside** the group. In applying this policy, a person is considered a group member if residing with the group and is disqualified. 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.

Determining Eligibility

All Programs

Determine eligibility and benefit amounts for all requested programs. A DHS-1171 application for cash assistance (FIP/SDA) is an application for medical assistance (MA/AMP), even if medical assistance is not checked as a program being applied for on page 1 of the application. PAM, Item 105, p. 11.

At application and redetermination:

- . Thoroughly review all eligibility factors in the case.

Applications and redeterminations must be completed within the standards of promptness. See PAM 115, 210. PAM, Item 105, p. 11.

Document each determination of eligibility or ineligibility on the DHS-1171-C, Eligibility Determination and Certification, and inform the client of the decision. PAM, Item 105, p. 11.

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.

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 this case, the department alleges that the claimant failed to verify his residence, which resulted in the department denying his MA and SDA applications and terminating his FAP benefits. The department provided no documents in the hearing packet, with the exception of the hearing summary, the claimant's request for a hearing and the notice of hearing. This Administrative Law Judge asked the department representative if there would be documents submitted to prove their case and the department representative asked what documents I wanted. This Administrative Law Judge explained to the department worker that documents were necessary to provide the evidence as to what actions the department took on the case, so at the very minimum the department would need to present the Assistance Application, the Verification Checklist that was sent requesting documentation of the claimant's residence, the notice showing the claimant's SDA and MA was denied, including the reasons, the notice showing the claimant's FAP was terminated, the medical forms that were specifically mentioned in the hearing summary and any other correspondence/documentation showing the department's actions in this case. The department was told to fax the documents to this Administrative Law

Judge and then, after receiving the documents and giving the claimant the opportunity to examine the documents, the hearing would resume. This Administrative Law Judge waited for the documents to be faxed for 30 minutes until a department representative called this office to indicate the department didn't have any of the documentation.

This Administrative Law Judge called to resume the hearing and the department worker indicated they didn't have any of the documentation this Judge had requested. The department requested an adjournment to attempt to locate the materials, which was denied by this Judge as it was the department's responsibility to ensure the documentation to prove their case was presented for the hearing. This Administrative Law Judge explained that it was not fair to require the claimant and his witness to return again for another hearing. It also was not possible to proceed with the hearing at this time. It would have clearly violated the claimant's due process rights to hold a hearing with no documentation and then allow the department to locate the claimant's file and send in any pertinent documents, as the claimant would not have the opportunity to examine, address and provide testimony on any of these documents. Further, this Administrative Law Judge can not conceive of how a department worker could testify to any actions taken in the case without the case file and documentation to refer to.

Thus, the department has failed to prove their allegations by a preponderance of the evidence. No evidence has been presented to show the claimant was not cooperative in any verifications the department requested.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied the claimant's SDA and MA application and terminated the claimant's FAP benefits in September 2008.

Accordingly, the department actions are REVERSED. The department shall:

1. Reinstate the claimant's FAP benefits back to the date of termination and issue the claimant all retroactive benefits he is entitled to.

2. Process the claimant's MA and SDA application for eligibility retroactive to the original date of application and issue any retroactive benefits applicable if the claimant meets eligibility requirements and the application is approved.

SO ORDERED.

/s/
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 12, 2009

Date Mailed: May 14, 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.

SLK 

cc:

