

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: 2009-17511

Issue No: 1005, 2006,
3008

Case No:

Load No:

Hearing Date:

May 6, 2008

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on May 6, 2009.

ISSUE

Whether the Department properly closed the Claimant's FAP, FIP and MA cases based upon the Claimant's failure to provide requested verification(s)?

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, FIP and MA recipient.
- (2) On January 30, 2009, the Department was notified via a State of Michigan Department of Human Services Enumeration Verification Report Number PC – 400 that

there was an issue with Claimant's son's [REDACTED] social security number. The Worker instructions on the notice state as follows "If the surname on CIS is correct, refer the client to the Social Security Administration to have the correct name entered on SSA files and to obtain a corrected SSN card. Ask the client to bring in the new card when it is received. Place a copy of the new card in the case folder." (Exhibit 1)

(3) On February 2, 2009, the Department mailed Claimant a Michigan Department of Human Services (DHS) Verification Checklist, DHS-3503, requesting that she provide a social security card for [REDACTED] with a due date of February 12, 2009 and to contact the SSA to verify it had the correct spelling of his name and birth date. (Exhibit 2)

(4) Claimant called the Department and left a message, but did not receive a return phone call. She did not understand what the problem was with her son's social security number. Claimant's son's [REDACTED] and she has been on and off assistance for close to a decade. Claimant did not have a social security card for her son as she lost it in a move.

(5) Claimant contacted the SSA and was informed that the issue with her son's social security number was not with the spelling of his name or his birth date. The issue dealt with information regarding her son's father on the birth certificate. She was instructed to get a new birth certificate in order to get him a new social security number and, once she filed the new birth certificate, it would take approximately 7-10 days for the SSA to issue a new social security card.

(6) On February 10, 2009, the Department received a copy of a Request for Birth Certificate [REDACTED] in the mail from Claimant.

(7) On March 6, 2009, the Department mailed Claimant a Notice of Case Action informing her that her FAP, FIP and MA benefits would be cancelled effective March 18, 2009.

(8) On March 17, 2009 the Department received Claimant's hearing request protesting the cancellation of her FAP, FIP and MA benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq*. The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. 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).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p. 1 A collateral contact is a direct contact with a person, organization or agency to verify information from the client. PAM 130, p. 2 When documentation is not available, or clarification is needed, collateral contact may be necessary. PAM 130, p. 2 Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4 Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. PAM 130, p. 6 Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. PAM 600, p. 11 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it.

As a condition of eligibility, clients, including being added to an active case, must supply their SSN or cooperate in obtaining an SSN unless excused. The Department is required to disqualify family members for whom the grantee refuses to supply an SSN, cooperate in obtaining an SSN or cooperate in resolving any errors. PEM 223, p.1.

The requirement to cooperate in obtaining an SSN is met by any of the following (1) Completing an SS-5, Application for a Social Security Card, (2) a refugee or, for FAP only, any individual provides an SSA-5028, Receipt for Application for a Social Security Number, to verify his SSN application at SSA, 3) A newborn is assigned an SSN via the Enumeration at Birth process, and the parent provides any of the following documents – A DHS-4557, Information About Your Baby’s Social Security Card, SSA-2853, Information About When You Will Receive Your Baby’s Social Security Card, a copy of a signed State of Michigan Certificate of Live Birth indicating that a Social Security card was requested or a modified birth document, indicating a Social Security card was requested. PEM 223, p. 2.

In the instant case, the “worker’s instructions” were to refer the client to the SSA to have the correct name entered on SSA files and to obtain a corrected SSN card, to ask the client to bring the new card in when she received it and to put the new card in the file. The Department referred her to the SSA and requested that she supply a social security card for her son, but she was only given 10 days to do so because it was done through a Verification Checklist. Claimant understandably did not know what the problem was and testified credibly that she contacted the Department in this regard. As instructed, she contacted the SSA and was told what the problem was and what she needed to do to correct it. The first step was obtaining a new birth certificate for her son. The Department

received a copy of the Request for Birth Certificate she made in [REDACTED] prior to the due date on the Verification Checklist. The Department waited another 3 weeks or so before it sent out the Notice of Case Action, but the worker instructions did not give any deadline for the client to provide the Department with the new social security card, PEM 223 only requires that the client provide a SSN or cooperate in obtaining one or correcting any errors which I find that Claimant did and the verification provisions require a negative action notice to be sent out if the Claimant refuses or does not provide a reasonable effort in providing the requested information and she clearly did not refuse, to the contrary, she provided a reasonable effort.

With the above said, I do not find that the Department acted in accordance with policy in terminating Claimant's FAP, FIP and MA benefits under the circumstances in this matter.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed Claimant's FAP, FIP and MA cases.

Accordingly, the Department's FAP eligibility determination is REVERSED and IT IS SO ORDERED. The Department is to:

(1) Issue Claimant any supplemental benefits that she may be entitled to from the March 18, 2009 cases closing date to the present if Claimant's case(s) were closed by the Department. It is unclear to the undersigned if Claimant's cases were closed given that Claimant's hearing request was received by the Department prior to the date of the

negative action, but the Hearing Summary indicates that the negative action was not deleted pending hearing.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 7, 2009

Date Mailed: May 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 receipt 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.

SMB/db

cc:

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