STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████

Claimant

Reg. No: 2009-18539
Issue No:
1022/2018/3014
Case No: ████████
Load No: ████████
Hearing Date:
July 22, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 July 22, 2009. Claimant appeared and testified.

ISSUE

Did the Department properly close Medical Assistance (MA), Family Independence Program (FIP), and Food Assistance Program (FAP) benefits for the Claimant based upon failure to verify household members?

FINDINGS OF FACT

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

1. On January 22, 2007 the Claimant signed and completed an application for benefits listing himself as never married.

2. On January 31, 2008 the Claimant completed a new application and again indicated never married.

3. On January 31, 2008 questions arose regarding the marital status of the Claimant. At that time the Claimant signed a statement he had mistakenly listed himself as not married. His spouse signed a statement indicating she didn't live with the Claimant.

4. On January 26, 2009 during the review of the Claimant's case the Claimant listed only himself and his son living in his home.

5. The Department ran an inquiry and the address the Claimant lives at shows more than just him and his son at the address.

6. On January 28, 2009 the Department received a school verification back from the school counselor for the Claimant's son which indicated the Claimant's son lived with his mother at a different address.

7. On February 3, 2009 the Department initiated closure of the Claimant's case based upon unable to determine household members.

8. On February 5, 2009 Claimant filed a request for hearing.

9. On February 19, 2009 the Claimant's spouse changed her driver's license indicating a new address.

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) 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 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 (formerly known as the Family Independence Agency) 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).

In the present case, Claimant filed a hearing request due to the Department closure of benefits for his failure to provide evidence regarding household members. The Claimant had previously completed two applications in which he signed affirming the statements made were truthful. Both applications he stated he was not married. The Claimant when questioned regarding his marital status provided a written statement from both him and his wife regarding their marriage and her living arrangement. However the

Department upon completing a case review this year discovered the residence in question still showed his alleged estranged wife listed at the residence. To further complicate matters the Claimant's school verification for his son listed the son living with his mother at a different address.

The difficulty presented in this case is credibility. The Claimant has demonstrated a propensity to mislead government officials. He has failed to be fully truthful on government applications and has admitted that his alleged estranged spouse has misled school officials in order to secure their son's place in a certain school district. The Claimant blamed his estranged spouse for the school issue while admitting he was aware and testified his estranged spouse drove his son daily to the school in question. Now the Claimant comes before this Administrative Law Judge (ALJ) and testifies that his son does live with him but his alleged estranged spouse does not. This ALJ like the Department is unable to believe the Claimant's statements due to his demonstrated propensity to lie.

Relevant policy PAM 130, p. 1-6:

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.

If a client indicates he/she has a disability that impairs his/her ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information.

Verification is **not** required:

When the client is clearly ineligible, or
For excluded income and assets **unless** needed to establish the
    exclusion.

Types of Verification

All Programs

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

A **document** is a written form of verification. It may include a photocopy, facsimile or e-mail copy if the source is identifiable.

Permanent documents must be obtained only once. Examples: birth certificate, passports, divorce papers, death notice.

Nonpermanent documents must be current. Examples: driver's license, pay stub, rent receipt, utility bill, DHS-49.

FIP, SDA, and MA

Documents used to verify citizenship and identity may be originals or copies of the original document. Facsimiles or emails are NOT acceptable documents for citizenship or identity.

Current means the following:

Income documents must correspond to the period used to determine
    eligibility or benefit amount (e.g., patient-pay amount). See PEM 500.

Medical documents must correspond to the period set by the Medical
    Review Team (MRT) or State Review Team (SRT) **or** to the date(s)
    stated on the document **if** MRT approval is not required.

Other nonpermanent documents are generally considered current if
    dated within 60 days before your eligibility determination. Older
    documents may be used if available information indicates the
    document remains current and there have been no changes in
    circumstances.

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.

The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtaining the verification. If the contact requires the client's signed release, use the DHS-27, Release of Information, (DHS-20, Verification of Resources, for inquiries to financial institutions), and specify on it what information is requested.

When talking with collateral contacts, disclose only the information necessary to obtain the needed information. Do **not** disclose specific programs for which the household has applied. Do **not** release any information supplied by the household or imply that the household is suspected of any wrongdoing.

Home calls are **not** required but may be used to verify factors. See the **"INTERVIEWS"** section in PAM 115.

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.

Use the DHS-3503C, Verification Checklist for Citizenship/Identity to request documentation of citizenship or identity for FIP, SDA, and Medicaid determinations.

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.

Alien information, blindness, disability, incapacity, incapability to declare one's residence and, for FIP only, pregnancy must be verified.

Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA.

Verification Sources

All Programs

"Verification Sources" of each PEM item lists acceptable verifications for specific eligibility factors. Other, less common sources may be used **if** accurate and reliable.

Use a particular source **if** it is the most reliable (e.g., public records). Otherwise**,** use the one easiest to obtain.

Timeliness of Verifications

CDC, FIP, FAP

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.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

Effective June 1, 2008

MA Only

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 up to three times.

Verification are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission in the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

- The client indicates refusal to provide a verification, **or**
- **The time period given has elapsed.**

- **Only adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

- At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification. See PAM 210.

All Programs

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

The Department after exhausting all avenues of verifying household members followed the Department policy and used their "best judgment". In this case they concluded the Claimant was not able to resolve the conflicting information and the Claimant failed to present information requested regarding the household within the requested time. The Claimant's alleged estranged spouse changed her home address on her driver's license after the second verification request due date of February 4, 2009. The school provided documentation suggesting the child was not at the address of the Claimant's. In the end the Department never received the necessary verifications necessary to determine group size which is a necessary component for all three programs.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted correctly.

It is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

/s/_____
             Jonathan W. Owens
             Administrative Law Judge
             for Ismael Ahmed, Director
             Department of Human Services

Date Signed: _8/17/09_____

Date Mailed: _8/18/09_____

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.

JWO/at

cc: