

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: 2009-20713

Issue No: 2006, 3008

Case No: [REDACTED] 1

Load No:

Hearing Date:

June 18, 2009

Wayne 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 June 18, 2009.

ISSUE

Whether the Department properly terminated Claimant's Food Assistance Program (FAP) and Medicaid (MA) benefits based upon his 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 and MA recipient.

(2) On March 18, 2009, the Department discovered through a [REDACTED] hit that [REDACTED] shows [REDACTED] may be Ineligible as earnings exceed [REDACTED] from 10/01/08 through 12/31/08.” (Exhibit 2)

(3) On March 18, 2009, the Department mailed Claimant a Verification Checklist, DHS-3503, and a Verification of Employment, DHS-38, with a due date of March 28, 2009 requesting paycheck stubs and records of all income for the above period. (Exhibits 5-7)

(4) On April 7, 2009, the Department mailed Claimant Notice(s) of Case Action informing him that his FAP and MA benefits were going to be cancelled effective April 21, 2009 for failure to provide verification of his income. (Exhibits B, C)

(5) On April 14, 2009, the Department received Claimant’s hearing request protesting the termination of his FAP and MA benefits. (Exhibits B, C)

(6) On April 14, 2009, the Department attempted to contact Claimant. (Exhibits 8-9)

(7) On April 21, 2009, Claimant’s FAP and MA benefits were cancelled despite the timely hearing request. (Exhibit 1)

(8) Claimant does not speak or read [REDACTED]. He testified that he has others read his mail for him and that he received the negative action notice(s), but did not receive the Verification Checklist/Verification of Employment.

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. Departmental 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. This includes the completion of 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 Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as local office option or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. PAM 130, p.1 The Department uses documents, collateral contacts or home calls to verify information. 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

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. 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 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. 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

In the instant case, there is no dispute that Claimant did not return the requested proofs to the Department. Claimant's position is that he never received the request. The analysis is fairly straightforward. On one hand, the proper mailing and addressing of a letter creates a rebuttable presumption of receipt and Claimant received everything else from the Department at the same address. On the other hand, he received the Notice(s) of Case Action and promptly responded by filing a hearing request prior to the effective date of the negative action which stated that he did not receive any letters or documents, he was willing to turn in any documents needed and he could not get through to his caseworker. It appears that the Department attempted to contact Claimant after receipt of his hearing request to no avail.

Claimant may or may not be eligible for FAP and MA benefits after a Departmental review of his income records for the period in question, but I believe Claimant is entitled to the review given the unique circumstances in this case including the language barrier and his reasonable effort to provide the proofs requested by the Department prior to the negative action date.

With the above said, I do not find that the Department established that it acted in accordance with policy in terminating Claimant's FAP and MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly terminated Claimant's FAP and MA benefits based on his failure to provide requested verifications.

Accordingly, the Department's action is REVERSED, it is SO ORDERED. The Department shall:

- (1) Reinstatement Claimant's FAP and MA benefits retroactive to the closure date.
- (2) Mail Claimant the Verification Checklist, DHS-3503, and Verification of Employment, DHS-38, and make a determination based on the proofs timely submitted by Claimant.
- (3) Issue Claimant supplemental benefits he is entitled to, if any.
- (4) Notify Claimant in writing of the Department's revised determination.
- (5) Claimant retains the right to request a hearing if he would like to contest the Department's revised determination.

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

Date Signed: June 25, 2009

Date Mailed: June 30, 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:

