

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: 2009-22813
Issue No: 3008;2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 21, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 October 21, 2009.

ISSUE

Was the claimant's FAP case properly put into closure for a failure to provide verifications?

Was the claimant's Medicaid case properly put into closure for a failure to provide verifications?

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 an FAP and Medicaid recipient in Wayne County.
- (2) In February, 2009, claimant was scheduled for a yearly re-determination.

- (3) On February 19, claimant was allegedly sent a DHS-3503, Verification Checklist.
- (4) Claimant testified that she never got this notice.
- (5) Claimant did not turn in required verifications.
- (6) The Department was unable to testify with first hand knowledge that the Verification Checklist was actually sent.
- (7) On April 8, 2009, claimant's FAP case and Medicaid case was placed into closure for a failure to return verifications.
- (8) On April 8, 2009, DHS received a request for hearing, which stated that claimant would like her re-determination papers.

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) and Reference Tables (RFT).

A DHS-1171, Assistance Application must be completed when eligibility is determined. PAM 210. An application is considered incomplete until it contains enough information to determine eligibility. PAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. PAM 130. All sources of income must be verified. PEM 500.

In the current case, the Department contends that claimant did not return any of her verifications, as required by the regulations, and was therefore cut-off of her benefits because the Department was unable to determine eligibility.

Claimant contends that she did not receive the request for verifications, and therefore, could not have returned them as requested.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

This requires the claimant to have some sort of evidence that can prove that she did not receive the verification request. The Administrative Law Judge has determined that the claimant is credible, and thus finds her statement credible that she did not receive the verification request. The undersigned notes that the claimant submitted a hearing request on the day her negative action notice went out requesting information on the status of her case. The undersigned believes that the claimant would have no reason to phrase her request for hearing in such a manner if the claimant had actually received the verification request. Thus, the undersigned finds it highly

likely that events unfolded as the claimant alleges. Furthermore, the claimant's demeanor, manner and testimony at the hearing painted a picture of credibility, and the undersigned, as the principal finder of fact, is willing to accept claimant's version of events. Finally, the Department was unable to provide any person with first hand knowledge of the case to testify that the DHS-3503 was actually sent out. While the notification was in the file, the Department was unable to state for sure whether or not this was actually sent to the claimant.

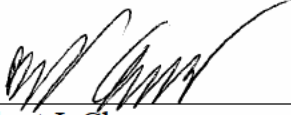
Therefore, it must be found that claimant did not receive her verification packet, and the Department should re-request the verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to place claimant's FAP and MA case into closure was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to request the verifications necessary to re-determine FAP and MA eligibility again. Claimant's benefit case is to be reopened retroactively to the date of negative action. The Department is FURTHER ORDERED to restore claimant's benefits retroactive to the date of negative action.


Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/17/09

Date Mailed: 12/21/09

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 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.

RJC/dj

cc:

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