

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: 2009-23755
Issue No: 1038; 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 9, 2009
Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 July 9, 2009. Claimant personally appeared and testified along with her boyfriend and father of her child [REDACTED]

ISSUES

1. Did the department correctly terminate claimant's Family Independence Program (FIP) benefits and sanction her Food Assistance Program (FAP) benefits in April, 2009?
2. Did the department correctly determine that claimant's boyfriend and father of her child [REDACTED] was not eligible for Medicaid (MA) due to his failure to verify his U.S. citizenship?

FINDINGS OF FACT

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

1. On July 16, 2008, claimant gave birth to a child in common with [REDACTED]. On August 15, 2008, department mailed the claimant a Verification Checklist, DHS-3503, setting up an interview for August 25, 2008 to add [REDACTED] to her FIP, FAP and MA case. Checklist also asked for paycheck stubs from August 1, 2008 to current. (Department's Exhibit 1).

2. Department also included a DHS-3503-C, Verification Checklist, asking for verification of citizenship for [REDACTED] (Department's Exhibit 2).

3. [REDACTED] attended an interview on August 28, 2008 but did not provide birth certificate needed for MA program. [REDACTED] also signed DHS-1538, Work and/or Self-Sufficiency Rules for Cash Recipients, acknowledging he understood Jobs, Education and Training (JET) program requirements. (Department's Exhibits 3 and 4).

4. [REDACTED] was given a DHS-4785, JET Appointment Notice, during the interview, telling him he must attend JET any Monday by September 17, 2008. (Department's Exhibit 5).

5. On September 23, 2008, claimant's caseworker contacted JET and was told that [REDACTED] did not show up for orientation. (Department's Exhibit 6). However, due to change of caseworkers and delays in case processing due to department's conversion to Bridges, new computer system, caseworker decided to give [REDACTED] another chance to attend JET program, a requirement in order for him to be added to claimant's FIP and FAP case. (Department's Hearing Summary).

6. On December 19, 2008, department mailed the claimant another JET Appointment Notice for [REDACTED] for January 5, 2009. The Notice advised that [REDACTED] must attend JET orientation on this day to avoid cash assistance closure for penalty for non cooperation. (Department's Exhibit 9).

7. On January 5, 2009, another two JET Appointment Notices were sent to the claimant for both herself and [REDACTED] scheduling an appointment date for January 12, 2009.

Both the claimant and [REDACTED] were no call/no show for these appointments. (Department's Exhibits 10 and 11).

8. From January 5, 2009 to February 5, 2009 there were again computer issues with claimant's case due to Bridges conversion, making it not possible for the caseworker to work on the case. On February 5, 2009, claimant's caseworker received a Bridges alert that neither the claimant or [REDACTED] attended JET program as required. (Department's Exhibits 12 and 13).

9. On February 5, 2009, department mailed the claimant and [REDACTED] two Notice of Noncompliance forms scheduling a triage appointment for February 12, 2009, to discuss their reasons for failing to attend JET program. Claimant and [REDACTED] were no call/no show for the triage appointment. (Department's Exhibits 14-17).

10. On February 5, 2009, department also mailed the claimant a Verification Checklist, DHS-3503, giving her until February 17, 2009, to provide proof of U.S. Citizenship for [REDACTED]. The form listed acceptable proof of citizenship. (Department's Exhibits 18 and 19).

11. Two more DHS-3503 forms were mailed to the claimant, on February 20, 2009, and February 27, 2009, asking for verification of [REDACTED] citizenship, with no response from the claimant. (Department's Exhibits 20-23).

12. On April 7, 2009, department mailed the claimant a Notice of Case Action telling her that her FIP case will close effective as of May 1, 2009 (April 21, 2009 closure date), that [REDACTED] MA will also close, and that her FAP benefits continue for 2 people only. (Department's Exhibits 24-30).

13. Claimant called on April 13, 2009, to ask for a new shelter verification form. Employment sanction was explained to her at that time. (Department's Exhibit 31). Claimant's FIP case closed on April 21, 2009, and she requested a hearing on May 12, 2009.

CONCLUSIONS OF LAW

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).

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).

Claimant and [REDACTED], the father of her baby, were mandatory participants in employment-related activities, namely the JET program. PEM 230A and B. Documentation

provided by the department clearly establishes that the department advised [REDACTED] of his obligation to participate in the JET program and consequences if he did not starting in August, 2008, when he was seen for a member add to claimant's assistance. Claimant was deferred from JET participation for 3 months following the birth of her baby in July, 2008. Repeated notices to attend the JET program were sent to [REDACTED] and then also to the claimant upon expiration of her deferral. Neither [REDACTED] or the claimant ever attended the JET program orientation, or called to say why they did not, and did not show or call for the triage appointment, which was an opportunity for them to state any good cause reasons for not attending JET.

[REDACTED] testified for majority of this hearing and states that the reason for his and claimant's failure to attend JET was that she puts away the mail and due to a brain injury from an accident several years ago forgets to tell him about it, or where she put it. Claimant is taking care of an 8 month old baby and is therefore difficult to believe that she does not remember she picked up the mail, does not understand that the mail is from DHS, or does not read the mail. It is also difficult to believe that all of the letters mailed to the claimant reached her home when [REDACTED] was absent from it, if his testimony that he has not been working at all is to be believed. Claimant received the letter in August, 2008 stating that [REDACTED] needed to come in for an in-person interview to be added to her case, and he indeed did so. Claimant was able to call her caseworker to request a new shelter form in April, 2009. [REDACTED] reasons for failure to attend the JET program since August, 2008 and also for claimant's failure to attend this program are therefore not considered valid.

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. There are consequences for a client who refuses to participate, without good cause. Such consequences include closure of the FIP grant for periods

of three months for first and second JET noncompliance, and one year for third JET noncompliance. As the claimant and [REDACTED] failed to participate, these would be first and second instance of JET noncompliance, leading to a three month FIP case closure. Claimant is deferred from participating in employment and/or self-sufficiency-related activities due to having a child under 6 in her care, and therefore would not be sanctioned on her FAP case. [REDACTED] however is not eligible to be added to claimant's FAP case due to his JET noncompliance. PEM 233A and B.

Secondary issue in this hearing is department's request that [REDACTED] provide proof of his U.S. citizenship for MA eligibility purposes. Departmental policy states that to be eligible for full MA coverage (versus emergency services only), a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status.

Acceptable documentation of one's U.S. citizenship is listed in departmental policy. Primary evidence is documentary evidence of the highest reliability that conclusively establishes that the person is a U.S. citizen, and is a U.S. passport, a U.S. passport card, a Certificate of Naturalization, or a Certificate of Citizenship. Secondary evidence includes a U.S. public birth record, Certification of Report of Birth, Consular Report of Birth Abroad of a Citizen of the U.S., Certification of Birth Abroad, U.S. Citizen Identification Card, American Indian Card, Northern Mariana Card, final adoption decree showing the child's name and U.S. place of birth, evidence of civil service employment by the U.S. government, official military record of service, a Homeland Security verification, etc. Third level evidence can be used only when primary evidence cannot be obtained within a reasonable length of time, secondary evidence does not exist or cannot be obtained, and the applicant or recipient alleges being born in the U.S. Such third level evidence includes an extract of a hospital record on hospital letterhead, established at

the time of birth and created at least five years before the initial application date and indicates a U.S. place of birth, life, health or other insurance record showing a U.S. place of birth and was created at least five years before the initial application date, religious record recorded in the U.S. within three months of birth showing the birth occurred in the U.S. that is an official record with the religious organization, and early school record showing a U.S. place of birth showing the name of the child, the date of admission to the school, the date of birth, a U.S. place of birth, and the name(s) and place(s) of birth of the applicant's parents. Fourth level evidence should only be used in the rarest of circumstances and includes Federal or State census record showing U.S. citizenship or a U.S. place of birth, records of Indian tribes. U.S. State Vital Statistics official notification of birth that is amended more than five years after the person's birth, statement signed by the physician or midwife who was in attendance at the time of birth, nursing facility admission papers and other institutional or medical records from a hospital, doctor, or clinic and was created at least five years before the initial application date and indicates a U.S. place of birth, excluding an immunization record, and a written affidavit to be used only in rare circumstances and completed by the applicant or recipient and at least two additional individuals of whom one is not related to the applicant/recipient and who have personal knowledge of the event(s) establishing the person's claim of citizenship. The individual making the affidavit must be able to provide proof of his/her own citizenship and identity. The affidavit is signed under penalty of perjury by the person making the affidavit but need not be notarized, and should include information explaining why other documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be obtained. PEM 225.

██████ testified that he did not have the money to get a copy of his birth certificate, even though such amount would have been fairly minimal to pay. ██████ also states that DHS-

3503-C wording allows for acceptance of records cited as identity records to show proof of citizenship. Above-cited policy clearly does not state this, and identity records cannot be used to show proof of citizenship. Wording of DHS-3503-C distinguishes of what are acceptable records to prove identity and what are acceptable records to prove U.S. citizenship, and they are not the same as [REDACTED] claims. Neither the claimant nor [REDACTED] provided verification of his U.S. citizenship, despite being given ample time to do so.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly terminated claimant's FIP benefits and sanctioned her FAP benefits in April, 2009. Department also correctly determined that [REDACTED] is not eligible for MA due to his failure to provide proof of his U.S. citizenship.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 27, 2009

Date Mailed: July 29, 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.

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