

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: 2009-25421

Issue No: 3008; 6015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 16, 2009

Kent 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 July 16, 2009.

ISSUES

- (1) Was the claimant's FAP allotment properly cut off for a failure to provide verifications?
- (2) Was the claimant's CDC application properly denied 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 recipient in Kent County.

- (2) In April, 2009, claimant applied for CDC benefits.
- (3) On 4-29-09, claimant was sent a DHS-3503, Verification Checklist, with a 5-11-09 due date.
- (4) Claimant was to submit an employment verification to comply with CDC requirements.
- (5) The DHS-3503 also stated that claimant needed to provide these verifications to prove eligibility for the FAP program.
- (6) Claimant had been through an FAP redetermination in December; claimant was not due for a mid-certification contact until June.
- (7) Claimant's employer faxed the verifications to DHS; however, DHS did not receive them.
- (8) On 5-14-09, claimant's FAP benefits were stopped for a failure to return verifications.
- (9) Claimant's CDC application was denied.
- (10) On 5-26-09, claimant filed for hearing, alleging she had returned all required verifications.

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 Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined or requested. BAM 210. An application is considered incomplete until it contains enough information to determine eligibility. BAM 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. BAM 130. All sources of income must be verified. BEM 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 and had her application denied because the Department was unable to determine eligibility.

Claimant contends that she did return the verifications, and provided Claimant's Exhibit 1, Letter from her Employer, which stated that the employer had faxed the verifications on three separate dates, and then again in May.

The Administrative Law Judge concludes that this evidence is dispositive evidence that DHS did receive the verifications. It is not unheard of for documents to be lost, and a letter from claimant's employer, a fairly neutral third party, testifying that the verifications were sent is more than sufficient evidence that the verifications were sent in a timely manner. The correct course of action is for the Department to re-request the verifications, or still, better, use the verifications that should still be on file from when the employer sent the verifications over in early spring.

That being said, the Administrative Law Judge is concerned that claimant's FAP benefits were even at issue in this case. Claimant's FAP went through the redetermination process in December. Claimant was not due for a certification contact until June. However, the Department felt that claimant's alleged failure to turn in verifications in an application for a completely unrelated program was sufficient reason to cut-off claimant's FAP benefits.

The Administrative Law Judge will be very clear on the matter: The Department may only request verifications in order to determine eligibility for a program. The Department can only determine eligibility at the proper, policy directed times, such as application and redetermination, or when a change has been indicated that could increase the benefit amount, per BEM 500 and 505. The Department **does not** have the right to request verifications at any time they feel like requesting verifications. The Department **does not** have the right to request verifications that are not required to determine eligibility.

Claimant applied for CDC. Claimant was not going through an FAP redetermination or similar process. No change had been reported. In fact, claimant was in the simplified reporting category. Simply put, there was absolutely no reason that the Department should have been requesting verifications to determine claimant's FAP eligibility. Claimant's FAP eligibility was

not, and never had been, at issue. Therefore, the Department had no right to request verifications for the claimant's FAP benefits, and even less right to sanction her for not returning them.

When the Department saw that their computer system was going to cut off claimant's FAP benefits, the Department should have stopped the cut-off from happening—the cut-off was illegal. The Department should remember for the future that a failure to return verifications may only affect the program(s) that is/are at issue; a failure to return verifications does not give the Department carte-blanche power to cut-off every program the claimant receives benefits from.

The Administrative Law Judge understands that this may be a problem with the new Bridges system. However, upon reflection, the undersigned is unsympathetic to this argument. Computer code does not excuse ignorance of policy. Policy dictates code; code does not dictate the policy. If the computer system insists on performing an illegal action, the caseworker should either look for a work around, or submit a trouble ticket to the appropriate authorities. The correct solution is not to sit back and sanction a program that has nothing to do with the case at issue.

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 close claimant's FAP case was incorrect. The Department's decision to deny claimant's CDC application was incorrect.

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

The Department is ORDERED to remove all negative actions against the claimant's FAP case, and re-request the verifications needed to process claimant's CDC application.

/s/

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

Date Signed: September 2, 2009

Date Mailed: September 3, 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.

RJC/cv

cc:

