

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: 2009-31091
Issue No: 2006; 3008; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 25, 2009
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 August 25, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's Food Assistance Program (FAP), Medical Assistance (MA) and Child Development and Care (CDC) benefits for failure to return the required redetermination materials and attend the in-person interview in May, 2009?

FINDINGS OF FACT

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

1. The claimant applied for FAP, MA and CDC on May 6, 2009.
2. The claimant was mailed a Verification Checklist (form dated May 15, 2009), scheduling the claimant for an in-person interview on May 22, 2009 and requiring all verifications to be turned in at the interview. (Department Exhibit 1).

3. An undated Application Eligibility Notice (DHS-1150) informed the claimant that her application for FAP, MA and CDC was denied due to her failure to attend the interview and return required verifications. (Department Exhibit 2).

4. The claimant produced the mailing envelope that contained the Verification Checklist. The mailing envelope was not dated until May 19, 2009. (Claimant Exhibit 3).

5. The claimant submitted a hearing request on June 24, 2009.

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).

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

**CLIENT OR AUTHORIZED REPRESENTATIVE
RESPONSIBILITIES**

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

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. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

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. PAM, Item 130, p. 4.

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. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

The claimant testified that she did not receive the Verification Checklist, scheduling the in-person interview and requiring the verifications to be turned in at the interview until May 21, 2009. The department had dated the form May 15, 2009 and scheduled the interview for May 21, 2009. First of all, the department is supposed to give the claimant at least ten days

to provide verifications. BAM 130. The department did not do so in this case. Further, the claimant produced the mailing envelope that clearly shows it was not post-marked until May 19, 2009 (See Claimant Exhibit 3). The claimant testified that she received the paperwork on May 21, 2009 and called the department to reschedule the appointment and request more time. The claimant testified that she had to work on May 22, 2009 and could not attend the interview.

The department representative testified that she was not sure if the claimant called and requested more time and a change of date for the interview. The claimant testified credibly that she did call and leave a return telephone number to reschedule the interview and ask for more time to get her verifications. Department policy requires the department to extend the time limits at least once. BAM 130.

It is quite clear in this case that the claimant was not given a reasonable time period to gather her verifications and make arrangements to attend the in-person interview. The claimant is credible in her testimony that she didn't receive the verification checklist until May 21, 2009 as it was not post-marked until May 19, 2009. Further, the claimant is credible that she called the department and requested more time to gather the verifications and a new interview date. The department is unable to dispute this testimony. Thus, the department failed to provide the claimant with the required opportunity to present her verifications and complete the in-person interview.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied the claimant's FAP, MA and CDC application because the claimant had not participated in a personal interview and did not return the required verifications for her redetermination.

Accordingly, the department's actions are REVERSED. The department shall:

1. Issue the claimant a new Verification Checklist, indicating what verifications are required and a new date for her in-person interview.
2. Process the claimant's benefits back to the original date of application, May 6, 2009, and issue any retroactive FAP, MA and CDC benefits that the claimant is eligible for.

SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 21, 2009

Date Mailed: October 26, 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.

SLK [REDACTED]

cc: [REDACTED]