

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg No: 2009-32951

Issue No: 3019, 1021

Case No: ██████████

Load No: ██████████

Hearing Date:

October 1, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on October 1, 2009. The Claimant appeared and testified. Sharon Johnson, Case Worker, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's Food Assistance Program "FAP" and Medical Assistance "MA" cases for failure to attend a recertification appointment?

FINDINGS OF FACT

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

1. Claimant was an active FAP and MA recipient.
2. On 6/8/09, the Department sent Claimant notice instructing him to attend an appointment for recertification. (Exhibits 1a & 2a).

3. On 6/23/09 the mailed letters were returned “return to sender, not deliverable as addressed, unable to forward.” (Exhibits 1b & 2b),
4. On 6/23/09, the Department placed the case in negative action status and the case was closed.
5. Claimant testified that he has been living at the address to which the notices were mailed for over a year.
6. Claimant testified that he has had difficulty receiving mail at his current address.
7. Claimant provided evidence in the form of a letter from the [REDACTED] indicating the delay in forwarding Claimant’s mail items was the fault of the post office. (Exhibit A).
8. On July 17, 2009, the Department received the Claimant’s written hearing request.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) 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 (formerly known as the Family Independence Agency) 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).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the 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. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. 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.

In the present case, Claimant testified that he did not receive the notices sent from the Department on 6/8/09. Claimant testified that he was having difficulty getting his mail delivered. In support of his claim, Claimant provided a letter from the [REDACTED] [REDACTED] which states, in part, as follows:

As a courtesy, we are enclosing extra copies of this letter for your use in contacting your creditors, business associates, and others. Past experience has shown that many will willingly review their customer's file and often waive any penalty, late fees or additional interest charges when it is apparent a delayed or missed payment is not the fault of the customer.

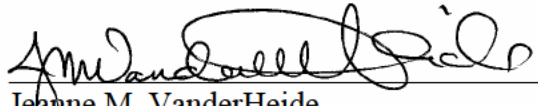
Accordingly, the Administrative Law Judge finds that the failure to respond to the Department's request was not a refusal to provide information on Claimant's part due to the fact that Claimant did not know of the request as he was not receiving mail. Based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's case effective 6/23/09 is reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP and MA case.

Accordingly, it is ORDERED:

1. The Department's 6/23/09 FAP and MA closure is REVERSED.
2. The Department shall reopen the Claimant's FAP and MA case back to the date of closure, delete the negative action of 6/23/09 and supplement the Claimant for any lost benefits he was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/26/09

Date Mailed: 10/28/09

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.

JV/dj

cc:

