

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: 2009-7398

Issue No: 2006; 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 26, 2009

Kent 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 February 26, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Medicaid (MA) and Food Assistance Program (FAP) benefits in December, 2008?

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 MA and FAP benefit recipient when the department received a computer match showing she had earnings of \$ [REDACTED] from July 1, 2008, through September 30, 2008 (Department's Exhibit #1).

2. Department had no record of the claimant reporting this income. On November 19, 2008, department mailed the claimant a Verification Checklist giving her until December 2, 2008, to have Manpower fill out DHS-38, Verification of Employment Income, form (Department's Exhibit #2).

3. The Checklist had the name of claimant's caseworker, his telephone number and his fax number clearly printed on it.

4. Department did not receive the requested DHS-38. On December 10, 2008, department mailed the claimant two Notices of Case Action to be effective December 23, 2008, one for MA saying her case will be closed due to her failure to return the redetermination form, and second one for FAP saying she failed to report and/or verify income. Claimant used these notices to request a hearing on December 17, 2008, and her benefits continue pending the outcome of the hearing.

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 (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).

Departmental 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.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. 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.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

Income reporting requirements are limited to the following:

- . Earned income
 - .. Starting or stopping employment
 - .. Changing employers
 - .. Change in rate of pay
 - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month
- . Unearned income
 - .. Starting or stopping a source of unearned income
 - .. Change in gross monthly income of more than \$50 since the last reported change. PAM, Item 105, p. 7.

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.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- . required by policy. PEM items specify which factors and under what circumstances verification is required.

- . required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- . information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

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.

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.

In claimant's case, department received computer matching information showing she had income from July, 2008 through September, 2008 that was not reported. Department then requested verification of this employment income in November, 2008, giving the claimant a little more than 10 days required by policy to provide it. Claimant testified that she did provide verification of income but to her previous worker. Why the claimant would do so is questionable as her caseworker's name is clearly printed along with his telephone number and fax number on the Verification Checklist mailed to her. Claimant also testified that she had told and left message for her previous caseworker telling her of her employment income.

Hearing was briefly recessed so that the department's representative could obtain more up to date computer matching report regarding any income claimant had since the end of September, 2008, the date of the last report. Department's representative then informed that computer matching showed that the claimant had \$ [REDACTED] of income for the 3rd quarter of 2008 and \$ [REDACTED] from Manpower and \$ [REDACTED] from another employer in the 4th quarter of 2008. Claimant completed a review application in October, 2008 according to the hearing testimony, and stated on this application that she had no employment income. Claimant then attempted to explain this in the hearing by saying she told the caseworker verbally that she was working. This Administrative Law Judge explained to the claimant that she does not consider such an explanation logical or credible, as she finds no reason why the claimant would write on the application she had no income only to tell her caseworker verbally she did. Claimant's failure to report her employment income in the 3rd and 4th quarter of 2008 supports department's claim that she failed to provide verification of such income for July, 2008 to September, 2008, as the claimant most likely did not want to do so because she was working for the same employer, Manpower, after this period of time. If Manpower did provide employment information to the

department at the end of November, 2008 when it was requested, department would have become aware that the claimant had unreported employment income after September, 2008 also.

This hearing however, is not about possible intentional program violation by the claimant due to her failure to report employment income, and no definite conclusion about such an issue is therefore required. As it is now end of February, 2009 and the claimant has been receiving MA and FAP benefits pending the outcome of this hearing, the receipt of such benefits must be addressed. Department did take action to terminate claimant's MA benefits in December, 2008, but the reason for termination is listed as claimant's failure to provide redetermination form, an issue that has apparently been resolved according to the hearing testimony prior to the hearing, as the form was received by the department. Department's representative indicates that the department is willing to give the claimant 10 days to return verification of her employment income so her ongoing MA and FAP eligibility can be determined.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly requested claimant provide verification of employment income reported to the department through computer matching.

Accordingly, department's action is AFFIRMED. However, department has agreed to offer the claimant the opportunity to provide verification of income so her current MA and FAP ongoing eligibility can be determined. Department shall:

1. Give the claimant a Verification Checklist, DHS-3503, and DHS-38, Verification of Employment forms, with a due date of 10 days to return this information.
2. If the claimant does not return this information by the due date, take action to terminate claimant's MA and FAP benefits. Claimant shall not be given an extension of time to

provide this information past the 10 days, as she has already been given almost 3 months prior to the hearing to provide income information and has failed to do so.

3. Upon receipt of claimant's income verification, department is to compute her MA and FAP budgets to determine ongoing eligibility, and then inform the claimant in writing of such determination.

SO ORDERED.

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

Date Signed: March 9, 2009

Date Mailed: March 10, 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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