

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: 2009-15308

Issue No: 2006; 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 9, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 April 9, 2009.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's November 3, 2008 MA and FAP application on the grounds that claimant failed to comply with the department's verification request?

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 11/3/08, claimant applied for MA and FAP with the Michigan DHS.

(2) The department failed to act on the application. In March, 2009, the department reviewed the case and opened MA effective March, 2009.

(3) On March 3, 2009, the DHS issued an Application Eligibility Notice (DHS-1150) informing claimant that her FAP case of 11/3/2008 was being denied for: "Failure to attend interview to discuss residence and income." Exhibit 7.

(4) DHS argued at the administrative hearing that the application date was initially 11/5/08. Contrary information is contained in the department's own denial notice which states that claimant, in fact, applied on 11/3/2008. Exhibit 7.

(5) The department subsequently determined that claimant's addresses were not consistent and claims it requested that claimant appear for an interview on 2/19/2009. Exhibit 6. Claimant credibly testified that she did not receive the verification checklist with the scheduled interview.

(6) The department never reviewed or opened an FAP case.

(7) On 2/6/09, the department issued notice of a denial of claimant's 11/3/08 application for: "failure to attend interview to discuss residence and income." Exhibit 7.

(8) The department testified that it proposed to close claimant's MA for the same reason as contained in Exhibit 7. The department submitted no evidence of a notice, negative action, or SIMS code sheet.

(9) The department testified that claimant's address on her driver's license was incorrect. The department failed to notice and copy the back side of claimant's the driver's license that contained the correct address.

(10) Claimant submitted adequate verification that one of the addresses was her business address.

(11) Claimant submit adequate verification from her landlord-mother attached to the shelter verification, pursuant to the DHS instructions. The DHS later argued that the verification was inadequate.

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).

Applicable policy and procedure to the case herein states in part:

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.

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.

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.

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.

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.

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.

FAP Only

Do **not** deny eligibility due to failure by a person **outside** the group to cooperate with a verification request. In applying this policy, a person is considered a group member if residing with the group and is disqualified: See “**Disqualified Persons**” in PEM Item 212. PAM, Item 105, p. 5. 7 CFR 273.1.

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.

The department's case was very confusing. On the one hand, the department argued a different application from the application date claimant insisted upon. A review of the department's evidence indicates that the department actually denied claimant on the date which claimant claimed she applied on--11/3/08. See Exhibit 7.

The department also argued that claimant submitted numerous addresses which were inconsistent and the department could not establish residency. However, claimant successfully rebutted the department's contentions. In fact, at application, there should not have been confusion. The backside of claimant's driver's license contained her correct address. Claimant also submitted adequate verification to indicate that one of the addresses with the utilities was actually her business address. The department also argued that because claimant's mother did not sign the shelter verification that it was inadequate verification. However, claimant was following the DHS instructions to have her mother write a statement and sign it. Exhibit 1 shows the statement written by her mother and her mother's signature. Her mother was the landlord for the time point at issue therein. That verification on Exhibit 1 was, in fact, attached to the verification of shelter on Exhibit 2.

After careful review of the credible and substantial evidence on the whole record, this ALJ finds that claimant successfully refuted the department's contention that she did not comply with the department's verification request. While this ALJ understands that there were different workers touching this case, such will not release the DHS from complying with verification policy and procedure cited above found in PAM Items 105, 110 and 130. Claimant was a credible witness who demonstrated that she specifically followed the DHS instructions and requests. This ALJ finds that

claimant did not fail to comply as required under the policy and procedure and thus, the department's actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's denial of claimant's MA and FAP pursuant to an 11/3/2008 application is hereby REVERSED.

The department is ORDERED to reinstate the 11/3/08 application date, and process claimant's FAP and MA. The department is ORDERED to issue any supplemental benefits to claimant to which she may be entitled. Claimant shall retain the right to a hearing for 90 days from the date of the new notice regarding the outcome of the reprocessing of the 11/3/08 applications.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 4, 2009

Date Mailed: May 5, 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 mailing date of the rehearing decision.

JS/cv

cc:

