

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: 2009-15684

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 4, 2009

Genesee 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 June 4, 2009.

ISSUE

Was the claimant's FIP and FAP allotment properly cut off 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 FIP and FAP recipient in Genesee County.
- (2) On 2-5-09, claimant's Annual Report statement was returned to the Department as undeliverable because the address was not known.

(3) DHS responded to this by sending a verification checklist to the same address that they had reason to believe was inoperable.

(4) This checklist requested shelter verification from the claimant.

(5) This form was not returned as undeliverable.

(6) Claimant did not return the form in time and her entire case was closed.

(7) Claimant requested a hearing into the matter, alleging that she still lived at that address and didn't understand why she was being cut off.

(8) The Department stated under oath that they could have verified that claimant still lived there by calling her, but chose not to, because there were "not enough hours in the day".

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department

policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Department's logic in this case is fuzzy at best, indecipherable at worst. The Department claims that they were within their rights to close claimant's case because they could not verify where claimant lived.

The Administrative Law Judge is having trouble following this logic. If the Department was unsure of where the claimant lived, the undersigned sees no reason for them to send a verification checklist *to the exact same address that they alleged claimant did not reside at*. Conversely, when the verification checklist wasn't returned as undeliverable, common logic would decree that this in itself is verification that claimant still resided there; the issue was whether claimant's address even existed, given that the first notice was returned as address "attempted--not known". This logic seemed to elude the Department. When claimant returned the form stating that yes, she did live there and the returned mail was part of a post office mistake, the Department threw up its hands and decided it couldn't help because claimant's case was already closed. True, the issue could have been resolved through a pre-hearing conference, but apparently the Department felt bound to cut off a claimant from her case and proceed to hearing for an obvious post office mistake instead of simply resolving the issue then and there.

The mistake is even more egregious given that a shelter verification form wasn't even required at this period of time; this was not part of an annual review. The only reason the form was sent out in the first place was because a piece of generic mail was returned to the Department, in a manner stating that such an address didn't exist. Common sense dictates that, given that this was the only piece of mail that had been returned in this manner, claimant's address more likely than not existed, and therefore, a post office mistake was the most obvious conclusion. Logic also dictates that if the Department truly believed claimant no longer resided

at that address, sending another piece of mail ***TO THE EXACT SAME ADDRESS*** would be an exercise in futility. The correct action would be to open up a mail file at the Department and call the claimant to determine if she still resided at her current address. Unsurprisingly, had the Department done this, it would have resolved the issue many months ago. The Department testified that it did not have the time to do this. The Administrative Law Judge is unsympathetic. Whether the Department is overworked is irrelevant; this does not excuse lapses in common sense, which this is, even if the Department feels that this valuable time (not to mention the Administrative Law Judge's time) is better spent in a useless hearing, which could have and should have been avoided.

Therefore, the Department is in error.

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 cut off claimant's case was incorrect.

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

The Department is ORDERED to remove any negative actions levied against the claimant in the issue at hand and retroactively restore any benefits that have been lost by the claimant.

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

Date Signed: June 26, 2009

Date Mailed: June 29, 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.

RJC/cv

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