

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: 2009-16123

Issue No: 3008;6015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 21, 2009

Wayne 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 April 21, 2009.

ISSUES

- (1) Was the claimant's FAP allotment properly cut off for a failure to provide verifications?
- (2) Was the claimant's MA eligibility 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 a Medicaid and FAP recipient in Wayne County.
- (2) On 2-6-09, claimant was sent a DHS-3503, Verification Checklist, requesting verifications for a review for his Medicaid and FAP allotments.

(3) The DHS-3503 requests verifications of claimant's paychecks, Social Security Benefits, and other forms of income, as well as claimant's records for claimant's assets, and shelter verification. The form also scheduled a review appointment for claimant on 2-17-09.

(4) Claimant would be out of town during the time of the appointment, and called DHS to attempt to reschedule.

(5) DHS did not reschedule.

(6) On 2-18-09, DHS sent claimant a negative action notice, notifying him that he would be cut off of all benefits for a failure to return a re-determination form (that was not sent to claimant), and failure to return verifications.

(7) Claimant subsequently returned all requested verifications, before the negative action date of 3-3-09.

(8) DHS continued with the cut-off, alleging that claimant did not turn in the verifications.

(9) Claimant filed for hearing on 3-3-09, within the negative action date, and therefore, should have retained all benefits pending the outcome of the hearing.

(10) DHS suspended claimant's benefits anyway.

(11) Claimant's caseworker was apparently unaware of exactly which program claimant was eligible for.

### 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).

Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. PAM 130. All sources of income must be verified. PEM 500. There is no asset test for FAP; therefore, no asset information need be requested with regard to the program.

The Department's treatment of the claimant has been at best baffling and quite possibly, negligent. It is indicative of a widespread systemic failure with regards to the claimant's case, and the undersigned is at a loss for words to the indifference with which the claimant has been subjected.

Claimant testified that he had been a recipient of SSI for the past several years, and was currently receiving RSDI after he attained the proper age, but had never been placed on Medicaid, and was on the Adult Medical Program (AMP) instead. Claimant's caseworker testified at hearing that she was unaware the claimant was receiving SSI or was currently on RSDI. Claimant's caseworker also testified that claimant was receiving AMP, filled out the hearing summary as if the claimant was receiving AMP, and testified repeatedly to questions asked by the Administrative Law Judge that claimant was on AMP.

The Administrative Law Judge finds this wholly incredible; after conducting some basic research with the help of SOAHR and DHS, it was confirmed that claimant had been receiving Medicaid for years, under different programs. This is not a simple mistake on behalf of the caseworker; there are vast differences between AMP and Medicaid, not the least of which is that claimant is eligible for Medicaid immediately on disability and that the two programs (MA and AMP) are mutually exclusive.

It should be noted that claimant's negative action notice does note that claimant was being found ineligible for Medical Assistance, which is consistent with the claimant receiving Medicaid, but at no time during the hearing did the caseworker allege that claimant was receiving Medicaid. This leads the undersigned to believe that claimant's own caseworker did not know what program or benefits that claimant is currently receiving, which would be incredible given the subject of the hearing. This does not fill the undersigned with confidence with regard to the Department's testimony.

Furthermore, claimant's caseworker testified that she was unaware that claimant was receiving RSDI, or had been receiving SSI. Claimant testified that he was receiving \$51 in food stamps before the cut-off; this amount would be consistent with the current RSDI benefit that claimant is receiving. Therefore, it appears that not only was someone in the Department aware that claimant was receiving RSDI, by budgeting the amount into his FAP budget, it had been aware for some time; however, this person was apparently not claimant's caseworker, the Department representative in this case, though it is her responsibility to know such things.

More disturbing is that these facts indicate that claimant's caseworker, and the Department representative before an Administrative Law Court was unfamiliar with any of the facts surrounding the claimant's case, her client, whom she bore responsibility to.

The Department representative at the hearing seemed wholly unconcerned by all of this and attempted to pass blame for the situation onto her supervisor, claimant's previous caseworker, and her high caseload. Her attitude toward the situation bordered on contemptuous.

When claimant questioned why his benefits had been cut off pending hearing, even though he returned his hearing request by the due date of 3-3-09, the claimant's caseworker testified that claimant had actually returned the request two days late, on 3-5-09. However, the hearing request clearly shows that a stamp, placed there by the Department itself, marks the request as received timely, on 3-3-09, which implies that claimant's caseworker was unable to read a simple date stamp, and cut off the claimant's benefits pending hearing contrary to policy and law.

Furthermore, the Administrative Law Judge requested that the Department submit an SOLQ of the claimant, in order to verify claimant's RSDI amounts. The Department agreed that the document would be submitted immediately. As of this writing, no such document has been submitted, nor has the Department contacted the Administrative Law Judge to explain its delinquency.

The Department testifies that the claimant failed to submit a re-determination form; hence the reason for claimant's cessation of benefits. To date, the Department has neither provided this mysterious form, nor alleged that it was sent. Department's evidentiary packet consists solely of a single DHS-3503, and no attempt has been made to prove any other part of its case.

The Department's incompetence in the current case is breathtaking. For that reason, documented by the facts above, the undersigned has determined that the Department has no credibility whatsoever in the current case. Every step has been marked by negligence and indifference, much to the harm of the claimant, and its testimony should be judged in light of this negligence.

Claimant alleges that he turned in all required verifications. The undersigned believes this is so, and would find it quite consistent with the Department's current actions if the verifications were lost. Claimant alleges that he attempted to reschedule his interview, but was unable to contact his caseworker, and was never called back to reschedule. The undersigned believes this to be the case as well.

Furthermore, even if claimant had not turned in his verifications, the Department would still be in error. The Department may only request verifications for information that it does not already have. Claimant's only source of income was RSDI; it could obtain that amount through an SOLQ, and obviously had at some prior point. There is no asset test for FAP and therefore, its request for assets verification was not required. The Department has provided no evidence that it ever sent claimant a shelter verification form, or anything else, besides the lone DHS-3503 that they somehow felt was proof enough of their case. Furthermore, if claimant was receiving Medicaid, it is unclear what verifications claimant needed to turn in that the Department was not already in possession of.

This situation is unfortunate; it could have been avoided if claimant's caseworker had taken the slightest interest in the claimant's case. Regardless, the undersigned is satisfied that the claimant turned in all required verifications and met the policy requirements to continue his benefits. The Department's actions towards claimant were plain 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 FAP and Medicaid benefits was incorrect.

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

The Department is ORDERED restore claimant's FAP benefits retroactive to the negative action date. Furthermore, the Department is ORDERED to restore claimant's Medicaid eligibility retroactive to the negative action date.

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

Date Signed: April 30, 2009

Date Mailed: April 30, 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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