

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: 2009-17528
Issue No: 1005; 2006; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 6, 2009
Washtenaw 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 May 6, 2009.

ISSUE

Were the claimant's FAP allotment, FIP benefits, and Medicaid benefits 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, FAP, and Medicaid recipient in Washtenaw County.
- (2) In February, 2009, claimant was due for an annual re-determination with regard to his benefits.

(3) On 2-25-09, claimant was sent a DHS-3503, Verification Checklist, with a 3-9-09 due date.

(4) Claimant was also instructed that he could bring all verifications to an interview date of 3-11-09.

(5) Claimant did not attend the interview, and did not turn in verifications by these dates.

(6) On 3-13-09, claimant was mailed a notice of missed interview, which informed him that he needed to reschedule the interview and turn in all verifications by the negative action date, 3-25-09.

(7) On 3-24-09, DHS received a request for hearing, which stated that claimant had never received any of the notices which asked for verification.

(8) Claimant did not send in any of the verifications at this time, or request an extension to get the verifications.

(9) At the hearing, claimant alleged that he had trouble receiving his mail and would verify this with a letter from the post office explaining the trouble; the record was extended for one week to allow claimant to secure this verification.

(10) As of this writing, claimant has not returned any such verification.

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 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).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined. PAM 210. An application is considered incomplete until it contains enough information to determine eligibility. PAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. PAM 130. All sources of income must be verified. PEM 500.

In the current case, the Department contends that claimant did not return any of his verifications, as required by the regulations, and was therefore cut off of his benefits because the Department was unable to determine eligibility.

Claimant contends that he did not receive the notifications of interview or the request for verifications, and therefore, could not have returned them as requested.

However, the proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

The Department has proven satisfactorily that they sent the claimant the notifications in a timely manner. The burden of proof falls upon the claimant to provide some sort of evidence that indicates he never received the packet. Unfortunately, claimant was unable to do so. While claimant testified that he had had trouble receiving his mail at his address, and would attempt to secure some sort of verification from the United States Postal Service that this was so, no such verification was ever returned to the Administrative Law Judge. Furthermore, it appears by the date upon claimant's hearing request that he did receive some mail by the negative action date; however, no evidence has been presented that claimant attempted to provide any of the verifications or reschedule his appointment before the negative action date.

Thus, claimant is unable to meet his burden of proof. Therefore, it must be found that claimant received his verification packet. As claimant did not return the verification packet, the Department was unable to determine eligibility. An inability to determine eligibility is grounds to place a case into negative action. Therefore, the Department was correct when they closed claimant's case.

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 close claimant's case was correct.

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

/s/

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

Date Signed: May 26, 2009

Date Mailed: May 27, 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 receipt 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

cc:

