

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: 2009-27456

Issue No: 2006, 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 22, 2009

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 conducted from Lansing, Michigan on September 22, 2009. The Claimant appeared and testified. Claimant was represented by her mother, [REDACTED] James Geisen, FIM and Marianna Martinez, Case Worker, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the claimant's Medical Assistance (MA) and Food Assistance (FAP) benefits for failure to provide requested verification.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of MA and FAP benefits.

2. In February 2009, claimant completed a semi-annual contact report indicating that she was no longer working.
3. On March 3, 2009, the department issued a Verification Checklist requesting that the former employer complete a DHS-38 Verification of Employment with a due date of March 13, 2009. (Department Exhibit 1)
4. Claimant unsuccessfully attempted to obtain the verification from the employer.
5. Claimant contacted the department on April 9, 2009 and reported she was unable to obtain the requested verification from her employer because she had been fired and was no longer allowed on the premises or to call the employer. (Department Exhibit 2)
6. Department faxed the needed form to the employer, but did not get any response.
7. On May 14, 2009, the department closed the MA and FAP benefits for failure to provide the requested employment verification.
8. Claimant requested a hearing on May 14, 2009 to contest the closure of the MA and FAP benefits.

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, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

Clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. PAM 105. The department periodically reevaluates cases to ensure that eligibility for program benefits continues. A redetermination is a periodic, thorough reevaluation of all eligibility factors to determine whether the group continues to be eligible for program benefits. PAM 210. Verification is usually required at application, redetermination and for a reported change affecting eligibility or benefit level. PAM 130. Under PAM 210, the department is to allow clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. The department must also help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. PAM 130. A negative action notice is to be sent 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 130.

Additionally, if neither the claimant nor the department can obtain the verification despite a reasonable effort, the department is to use the best available information or if no information is available, use best judgment. PAM 130. For the FAP program, the department may not deny eligibility due to failure to cooperate with a verification request by a person outside the group. PEM 105.

In the present case, the claimant reported that her employment ended on a February 2009 Semi Annual Contact Report. The Department issued a Verification Checklist on March 3, 2009 requesting that claimant obtain a DHS-38 Verification of Employment from her former employer. (Department Exhibit 1) Claimant testified she had been fired and her employer would not allow her on the premises. Claimant testified she had phone and fax numbers and last contacted the former employer in April to have the form completed but never got a response. Claimant notified the department of the difficulty in having the employer complete the form on April 9, 2009. (Department Exhibit 2)

Department did make an effort to assist with obtaining the verification by faxing the DHS 38- Verification of Employment form to the employer. However the department testified that no additional efforts were made to obtain the requested verification such as a phone call to the employer or check on The Work Number system. Additionally, claimant testified the police were involved when she was fired, a copy of the police report could be requested as possible alternative documentation for the termination of employment.

Based upon the foregoing facts and relevant law, it is found that the department has not provided sufficient proof that the client refused to provide a verification or that the client has not made a reasonable effort to provide it. It was a third party, claimant's former employer, who was not cooperative with the request for verifications.

Additionally, the above-cited policy specifies that FAP benefits should not be denied when a person outside the group refuses to cooperate with a verification request.

Accordingly, the department shall re-instate claimant's MA and FAP benefits retroactive to the closure date of May 14, 2009. If additional verifications are still needed, the

department should further assist claimant in obtaining the information and consider alternative types of verification to the DHS-38 Verification of Employment form if the former employer continues to be uncooperative.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the claimant's MA and FAP benefits for failure to provide verification.

Accordingly, the Department's MA and FAP eligibility determinations are REVERSED.

Therefore it is ORDERED that the department reinstate claimant's MA and FAP benefits retroactive to the closure date of May 14, 2009 in accordance with this Decision.

_____/s/_____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 25, 2009

Date Mailed: September 28, 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.

CL/cv

2009-27456/CL

cc:

