

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: 2009-27766
Issue No: 2006; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 29, 2009
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 July 29, 2009. The claimant personally appeared and provided testimony, along with her mother, [REDACTED]. The record was held open until August 12, 2009, to allow the claimant to provide proof of the payroll information being submitted by her employer.

ISSUE

Did the department properly deny the claimant's Food Assistance Program (FAP) and Medical Assistance (MA) application for failure to return the required verifications in May, 2009?

FINDINGS OF FACT

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

1. The claimant applied for FAP and MA on March 11, 2009. On this application the claimant reported that she worked at [REDACTED] restaurant. (Department Exhibit 8 – 23).

2. The department attempted to verify the claimant's work status through the Work Number, but the employer did not participate. (Department Exhibit 7).

3. The claimant was mailed a Verification Checklist (DHS-3503) on April 7, 2009, requesting paycheck stubs for the last 60 days, bank statements and proof of household expenses. These items were due on April 17, 2009. (Department Exhibit 6).

4. The claimant returned the Verification of Employment (DHS-38) from [REDACTED] on April 16, 2009. The claimant submitted a letter with the DHS-38 that states she didn't receive the Verification Checklist until April 13, 2009 and that she filled out the Verification of Employment over the telephone with her employer, but that her employer was going to fax the department her pay history from February, 2009 to present. (Department Exhibit 3 – 5).

5. The department indicates that no pay check stubs were received and the claimant's application for MA and FAP was denied on May 7, 2009. (Department Exhibit 1 -2).

6. The claimant's employer, [REDACTED] submitted a copy of the claimant's pay history, showing the report was run on April 13, 2009. The claimant's employer also submitted a signed letter from the manager indicating that he had faxed the report on April 14, 2009. (Claimant Exhibit 24 – 25).

7. The claimant submitted a hearing request on May 13, 2009.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Department policy states:

**CLIENT OR AUTHORIZED REPRESENTATIVE
RESPONSIBILITIES**

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5. Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, 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. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

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. BAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

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. BAM, 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. BAM, Item 130, p. 4.

The department representative testified that while the claimant did return the Verification of Employment (DHS-38), the claimant never turned in any paycheck stubs. The department representative testified that this was the only documentation that was missing and caused the denial of the application.

The claimant testified that she sent in the DHS-38 because she didn't receive the Verification Checklist until April 13, 2009. The claimant sent in a letter with the verifications that indicated her manager was going to fax the pay information as soon as the main payroll department emailed it to him. The claimant testified that she talked to her manager, [REDACTED], and he told her that it had been faxed on April 14, 2009 to the department.

The department testified that they had never received any such fax. Thus, this Administrative Law Judge left the record open until August 13, 2009, to allow the claimant to submit evidence of the payroll information being faxed to the department. The claimant faxed this Administrative Law Judge the evidence on August 11, 2009. The documentation includes a payroll report which was run at 13:38:28 on April 13, 2009, which shows the claimant's pay history from February 1, 2009 through April 13, 2009. The claimant's manager also provided a letter indicating that he faxed this report to the department on April 14, 2009. This was by the April 17, 2009 due date. Thus, this Administrative Law Judge finds that the evidence shows the claimant did provide the necessary verifications within the required time limits and that they were possibly misplaced or lost at the local office. Thus, the claimant's application should be re-processed back to the original date of application, March 11, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied the claimant's FAP and MA benefits, as

the claimant has produced evidence showing her employer did submit the payroll information necessary to the department.

Accordingly, the department's actions are REVERSED. The department shall:

1. Re-process the claimant's FAP and MA application back to the original date of application, March 11, 2009.
2. Issue any retroactive FAP and MA benefits the claimant is eligible to receive.

SO ORDERED.

/S/
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 30, 2009

Date Mailed: October 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 receipt date of the rehearing decision.

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