

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: 2009-28594
Issue No: 3008; 6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 18, 2009
Genesee 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 August 18, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) benefits for failure to return the required redetermination materials in June, 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's FAP and CDC case came due for a redetermination during the month of June, 2009. On May 20, 2009, the department mailed the claimant a Redetermination

form (DHS-1010) with an in-person appointment date scheduled for June 9, 2009, when the redetermination materials were due. (Department Exhibit 1).

2. The claimant did not attend the June 9, 2009, interview. The claimant was mailed a Notice of Missed Interview (DHS-254) on June 9, 2009 that indicated she needed to reschedule the interview prior to June 30, 2009, or her redetermination would be denied. (Department Exhibit 2).

3. The department indicates that the claimant called the department on June 15, 2009, but did not leave any reason for the call. The department also indicates that a return call was placed to the claimant on June 17, 2009, but no one answered the telephone and no voice mail was available.

4. On June 18, 2009, the department mailed the claimant and her daycare provider a notice that indicated the CDC benefits were ending on July 4, 2009. (Department Exhibit 3).

5. On June 30, 2009, the claimant's FAP benefits were scheduled to close.

6. The claimant submitted a hearing request on June 25, 2009.

7. The claimant submitted copies of her cell phone records at this hearing, showing telephone calls were made to the local DHS office on May 22; June 12; and July 3, 2009. (Claimant Exhibit 4).

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 Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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. PAM, 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. PAM, Item 105, p. 5.

Verifications

All Programs

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

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, 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. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, 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. PAM, 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. PAM, Item 130, p. 4.

The claimant testified that she did receive the redetermination materials and the Notice of Missed Interview (DHS-254). The claimant testified that she couldn't attend the personal interview scheduled for June 9, 2009 because she had to work on that date. The claimant further testified that she called her case manager on several occasions to reschedule the interview and

never received a call back from the worker. The claimant submitted some cell phone call records that show the claimant made calls to the department from her cell phone on May 22; June 12; and July 3, 2009. The department indicates that the claimant called on June 15, 2009, but left no reason for the call. The department further indicates that a case worker called the claimant back on June 17, 2009, but received no answer or voice mail.

Thus, there is evidence the claimant attempted to reschedule the personal interview for her redetermination. Department policy does require a personal interview for FAP redeterminations. PAM 210. The claimant was scheduled for her CDC redetermination at the same time as her FAP redetermination. This policy further states that if the claimant misses the scheduled interview, the department is to send the claimant a Notice of Missed Interview. There is evidence that the claimant called the department multiple times on June 12, 2009, which would coincide with the time period after the department mailed the claimant the Notice of Missed Interview (which was on June 9, 2009). Thus, it would appear that the claimant did call the department to attempt to reschedule the personal interview both after receiving the Redetermination packet and after receiving the Notice of Missed Interview. There does not appear to be any other return call from the department to the claimant to reschedule her interview. Thus, it would appear that the department failed to reschedule the claimant's interview. The claimant did follow department policy and did attempt to call to reschedule the interview within the redetermination month. Thus, the department is found to be at fault for not returning the claimant's telephone calls to reschedule the appointment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly terminated the claimant's FAP and CDC benefits as the claimant did attempt to reschedule the interview and would have provided the

redetermination materials at that time. The department failed to reschedule the claimant's interview.

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

1. Reinstate the claimant's FAP and CDC benefits back to the date of case closure.
2. Reschedule the claimant's interview for the FAP program and allow her to submit all redetermination materials for the FAP and CDC program at that time.

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

Date Signed: October 8, 2009

Date Mailed: October 12, 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.

SLK 

cc:

