

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: 2009-28818
Issue No: 3008, 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 4, 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 4, 2009. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits for failure to return the required verifications in May, 2009?
2. Did the department properly process the claimant's Child Development and Care (CDC) application in April, 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 case came due for a redetermination during the month of May, 2009.

2. The claimant moved from Ingham County to Genesee County on April 1, 2009.
3. On April 20, 2009, the department (Ingham County) mailed the claimant a Redetermination form (DHS-1010) to her Lansing address. It was due back to the department by May 1, 2009. (Department Exhibit 11 – 14).
4. The department transferred the claimant's case from Ingham County to Genesee County on April 22, 2009. (Department Exhibit 31).
5. On April 22, 2009, the Genesee County office mailed the claimant a Shelter Verification (DHS-3688) and a Child Care Provider Verification form (DHS-4025) for the claimant to complete. The department also sent the claimant a Verification Checklist (DHS-3503) requesting a work schedule showing the amount of hours worked, 30 days of pay stubs or a completed Employment Verification form (DHS-38). The due date for the verifications was May 4, 2009. These forms were all mailed to the claimant's new Fenton address. (Department Exhibit 23 – 24, 26 – 29).
6. The department also mailed the claimant a Notice of Case Action (DHS-1605) on April 22, 2009 that indicated the claimant and her child were approved for MA benefits. (Department Exhibit 19 – 20).
7. On April 30, 2009, the department received a completed Relative Care Provider Application (DHS-220-R), a completed Child Care Provider Verification form (DHS-4025) and a completed Shelter Verification form (DHS-3688). (Department Exhibit 15 – 17).
8. On May 27, 2009, the department mailed the claimant a Notice of Case Action that informed her that her FAP benefits would be closing July 1, 2009 due to failure to provide the necessary verifications. (Department Exhibit 6 – 9).
9. The claimant submitted a hearing request on June 2, 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 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 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.

In this case, the claimant testified that she moved on April 1, 2009, from Ingham County to Genesee County. The department was unsure of the exact date the client reported her change in address, although the claimant testified that she went into the Flint office and reported it on April 3, 2009. The case was transferred from Ingham County to Genesee County on April 22, 2009. At the time it transferred, the claimant was in the process of having a redetermination due.

The Ingham County office issued the Redetermination packet on April 20, 2009. However, Genesee County issued the remainder of the forms and requests for verifications. Of specific relevance is the Verification Checklist (DHS-3503) mailed to the claimant's correct Fenton address on April 22, 2009. Among the verifications this checklist requests is verification of wages, salaries, tips and commissions. The requested proof is one of the following: last 30

days of check stubs or earnings statements, employer statement, or a completed Verification of Employment (DHS-38).

The claimant testified that she never received the Verification Checklist. However, as found above, the checklist was mailed to the claimant's current address in Fenton. 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). In this case, the claimant provides no evidence to show that she was having any difficulties with her mail.

Further, the caseworker indicates that she called the claimant about May 15, 2009 and informed her that the verifications were due on May 4, 2009, but gave her until May 21, 2009 to get them to the department. The claimant did not provide any proof of income. The claimant testified that her job refused to fill out the Verification of Employment form (DHS-38). It is unclear how the claimant would have received the Verification of Employment form to have her employer complete, if she had not received the Verification Checklist. This Administrative Law Judge asked the claimant why she didn't submit 30 days of paycheck stubs instead of the Verification of Employment. The claimant testified that she didn't know that she could submit that instead of the Verification of Employment. However, if the claimant did receive the Verification Checklist, which was mailed to the proper address, the claimant would have known that she could turn in 30 days of pay check stubs as it specifically states that in the requested proof section.

Department policy requires the claimant to submit all required verifications. BAM 130. Policy allows the client ten calendar days to provide the requested verifications. If the client cannot provide the verification despite a reasonable effort, policy allows for an extension of time

at least once. BAM 130. In this case, the claimant was given an extension to provide the proof of employment income by the case worker. The verifications had been due on May 4, 2009, but the case worker verbally gave the claimant until May 21, 2009, to submit them. The claimant did not ever submit any form of proof of income. Department policy directs the staff member to send a negative action notice when the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130. In this case, the claimant was given an extension and still did not turn in any form of proof of income. Thus, the department was unable to budget the FAP or CDC case and properly closed the case.

It is noted that while the claimant submitted a hearing request on the MA, the department testified that the claimant's MA is still active and open and has not closed. Thus, there does not appear to be any hearing issue on the MA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly terminated the claimant's FAP benefits because the claimant did not return the required verifications for her redetermination. The department also was unable to determine eligibility for CDC and properly denied her CDC applications.

Accordingly, the department's actions are UPHELD. SO ORDERED.

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

Date Signed: September 29, 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 60 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.

SLK [REDACTED]

cc: [REDACTED]