

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: 2009-30654
Issue No: 6004
Case No: [REDACTED]
Load No:
Hearing Date:
December 10, 2009
Lansing AH - Adoption Subsidy

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an in-person hearing was held on December 10, 2009.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's request for an extension of claimant's adoptive son's adoption subsidy and medical subsidy agreements?

FINDINGS OF FACT

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

(1) At all relevant times prior to the negative action herein, claimant's adoptive son was a recipient of the adoption and medical subsidy programs with the State of Michigan.

(2) On 2/29/08, the DHS issued a letter to claimant indicating that verifications on the record indicated that her adopted son will become 18 years old on [REDACTED]. The backside of the letter contained information where there may be a subsequent action by the agency in the future

which instructs the claimant that they would have a right to a hearing should they disagree with that action within 90 days of an undefined date. The letter indicated that the Adoption Subsidy Program can be extended, which was explained in an attached enclosure. The attached enclosure was a DHS-628B indicating that the Adoption Subsidy and Medical Subsidy Programs may be extended where a child is attending high school full time and making progress toward the completion of a high school diploma. The form states that to receive an extension, certain documentation must be received by July 31, 2008. The required verification included a signed letter from the parent with certain specifications as well as a signed letter from the school official documenting that the child is attending high school full time and proceeding toward a high school diploma. The letter must be on school letterhead and dated. Claimant Exhibit A.

(3) Along with the information attached to the letter was information to claimant indicating who their worker was based upon the first letter of the last name. That individual was present at the administrative hearing.

(4) Claimant credibly testified that they made repeated phone calls to the worker identified on the form but received no return calls and was unable to reach the worker regarding their questions.

(5) Claimant credibly testified that at the time they attempted to obtain verification, the school was closed and they were unable to obtain verification.

(6) On [REDACTED] submitted a letter documenting claimant's enrollment. Claimant also submitted a statement dated 9/14/08, from the parent indicating a request for an extension. It is not date-stamped. It does have a fax date of 9/22/08.

(7) On October 7, 2008, the adoption subsidy specialist denied the request for an extension for the following reason:

CFR 630, adoptive parent(s) or legal guardian(s) who are requesting an extension, must provide written documentation to the

Adoption Subsidy Program Office within 90 days following the child's 18th birthday. If documents are not received within 90 days, the child's subsidy case will remain closed and will not be reinstated. Exhibit C.

(8) On 10/21/08, claimant requested a hearing which was received in the Adoption Subsidy Office on 10/23/08. Exhibit D.

(9) The adoption subsidy specialist had no knowledge or information that claimant was ever informed that there was a 90-day window in which to request an extension.

(10) The adoption subsidy specialist indicated that the claimant's case had been transferred to another worker and that they have a caseload of over 7,000 cases. The department further testified that based upon the information at the time of the action, claimant was contacting the correct worker who was in fact the individual who testified at the administrative hearing. That individual had no evidence of having responded to claimant's numerous inquiries.

CONCLUSIONS OF LAW

In this case the department submitted as authority in this case the denial policy, which indicates that an individual must request an extension within 90 days following the child's 18th birthday pursuant to CFF 630. However, there is no information in the initial letter of 2/29/08 or the attached DHS-628B, or the second page of the attached DHS-628B regarding the same. There is a date, which is obviously hand-plugged into the standard form letter, which gives claimant until 7/31/08 to return the verification(s). However, that date is not 90 days from the date of claimant's 18th birthday. In fact, it is well over 90 days. It also is in the middle of summer when the schools are closed.

As noted in the findings of fact, claimant credibly testified at the administrative hearing that there were numerous attempts to contact Adoption Subsidy and the worker assigned to them regarding the confusion and questions as to the dates and the inability to acquire the requested verification(s).

General verification policy and procedure applicable to the DHS states in part:

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. PAM, Item 105, p. 5.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

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.

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.

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.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- . required by policy. PEM items specify which factors and under what circumstances verification is required.
- . required as a local office option. The requirement **must** be applied the same for every client. Local requirements may

not be imposed for MA, TMA-Plus or AMP without prior approval from central office.

- . information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

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

The client must obtain required verification, but you must assist if they need and request help. 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.

ELIGIBILITY DECISIONS

Denials

All Programs

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. PAM, Item 115, p. 15.

In this case, the department is required to clearly state what is necessary and when it is due. Policy does not indicate that the department in general can hold an individual responsible for a third-party's failure to cooperate with verification requests.

In this case, claimant did not exhibit a clear indication of a failure to cooperate. The department is not entitled to deny a case until it is clear that claimant has failed to cooperate with the department's requests. The department did not have any responses as to why it did not respond to claimant's numerous inquiries. Nor could the department explain why it was holding claimant to a 90-day window when such a window was contrary to the explicit dates given in the verification and nowhere in the instructions to claimant is the 90-day window laid out. This

Administrative Law Judge finds that the department has failed to follow its general verification policy and procedure and thus, the department's actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's denial is REVERSED.

It is ORDERED that the department reinstate claimant's adoption and medical subsidies from the date of closure and keep them continuing pursuant to the verification received from



The department is ORDERED to issue supplemental benefits and keep claimant's payments and benefits continuing as directed under policy—when claimant's son turns 19 years of age. It is SO ORDERED.

_____/s/_____
Janice Spodarek
Administrative Law Judge

Date Signed: December 23, 2009

Date Mailed: January 13, 2010

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.

JS/cv

cc:

