

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: 2009-30666

Issue No: 3008; 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 19, 2009

St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on August 19, 2009.

ISSUE

Was the claimant's FAP allotment and MA properly cut off for a failure to provide verifications?

FINDINGS OF FACT

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

- (1) Claimant was an FAP and MA recipient in St. Joseph County.
- (2) During a case review, it was noted that DHS had lost claimant's vitals packet, including copies of claimant's photo ID, Social Security Cards and birth certificates.

- (3) On 6-22-09, claimant was sent a DHS-3503, Verification Checklist, with a 7-2-02 due date.
- (4) This notification stated that DHS had lost the claimant's vital information.
- (5) The verification notice was sent to the wrong address.
- (6) Claimant did not turn in verifications by these dates.
- (7) On 8-1-09, claimant's benefits were stopped for a failure to return verifications.
- (8) On 7-17-09, DHS received a request for hearing.
- (9) Claimant had verified citizenship and identity at initial application, almost 3 years ago.

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).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined. BAM 210. An application is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory.

An application that remains incomplete may be denied. BAM 130. All sources of income must be verified. BEM 500.

Furthermore, identity must only be verified at application. BEM 221. Citizenship verification is not required for U.S. citizens applying for FAP. BEM 225. Citizenship must only be verified at application for MA. BEM 225. There is no policy that states that a client must provide further proof of citizenship or identity after supplying it to the Department upon application.

In the current case, the Department contends that claimant did not return any of her verifications, as required by the regulations, and was therefore cut off of her benefits because the Department was unable to determine eligibility.

This is completely unsupported by policy. First, the claimant needed to supply these verifications in order to originally be approved for benefits. The fact that claimant was on benefits should be proof enough that they were supplied at that time. Therefore, the Department was not “unable to determine eligibility”.

Second, as the Department testified, the Department was not unsure of her identity or residence status. The Department had merely lost the original paperwork and wanted a complete file. The undersigned is unsure of how exactly this is the claimant’s problem.

Third, policy only requires proof of citizenship and identity **at application**. The policy items on these subjects are rife with references to applications and denying applications of individuals for failure to provide verification. There is no mention of a client providing the same verifications after the fact, years later, because the Department is unable to keep track of its own paperwork. The Department was in error from the moment they sent the DHS-3503.

Finally, nothing in the policy supports sanctioning a claimant for the Department’s own failures. Regardless of whether the claimant did or did not pay heed to the DHS-3503, the fact

remains that all of this stems from a mistake made by the Department. Sanctioning the claimant for that mistake is both unconscionable and a violation of the law.

This is, of course, ignoring the fact that claimant wasn't even required to verify citizenship for her FAP benefits in the first place; cutting off claimant for a failure to provide citizenship verification for FAP is a gross violation of policy.

Furthermore, claimant contends that she did not receive the request for verifications, and therefore, could not have returned them as requested.

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).

The Department has not proven satisfactorily that they sent the claimant the notifications in a timely manner. The DHS-3503 is addressed to the wrong address. It is unsure of who, exactly, was at fault for this, but regardless, the notice was not correctly addressed.

Thus, the Department has not met its burden of proof showing that claimant was sent a correctly addressed packet. Therefore, it must be found that claimant did not receive her verification packet.

The Department claimed that the problem was the new Bridges system; it only allowed the Department to issue a cut off when they could not find claimant's vitals packet. The undersigned, upon reflection, is unsympathetic to this argument. Computer code does not excuse ignorance of policy. Policy is clear—identity and citizenship verifications are required only at application. If Bridges does not allow for entry of a Department error with these verifications, the solution is not to sanction the claimant or request the claimant's assistance to fix a Department mistake. The solution is to enter a corrections ticket, notify the Bridges

programmers, and get the problem fixed. Putting the blame for the mix-up onto the claimant is an error of the highest magnitude.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to close claimant's case was incorrect.

Accordingly, the Department's decision in the above-stated matter is, hereby, REVERSED.

The Department is ORDERED to remove all negative actions against the claimant in the above matter.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 20, 2009

Date Mailed: August 20, 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.

RJC/cv

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