

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: 200935543
Issue No: 1005; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 15, 2009
Wayne 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 October 15, 2009.

ISSUE

Was the claimant's FIP and FAP case properly placed into closure when a routine communication was returned as undeliverable?

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 a FAP and FIP recipient in Wayne County.
- (2) On May 6, 2009, claimant was sent a routine communication from DHS.
- (3) The notice was returned as undeliverable.

- (4) On May 6, 2009, claimant was sent a DHS-3503 requesting an in-person interview for May 18, 2009.
- (5) Claimant did not receive this notice.
- (6) Claimant's mailbox had been stolen and claimant was not receiving her mail.
- (7) Claimant was not undergoing a redetermination at the time.
- (8) Claimant did not attend the interview.
- (9) Claimant's FIP and FAP case was subsequently placed into closure.
- (10) On July 8, 2009, DHS received a request for hearing, stating that her case had closed for no reason that she was aware of.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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. PAM 130.

Address verification is not required for FIP purposes. PEM 220.

The Administrative Law Judge will point out that he was unable to find any policy that supports a case closure action as a result of a piece of mail being returned as undeliverable.

However, two policies could reasonably be interpreted to support a case closure action in such instances.

First, PAM 105 states that a client must "cooperate with the local office in determining initial and ongoing eligibility." As claimant's address would reasonably be a factor in ongoing eligibility, failure to return verifications of address could be seen to be a failure to cooperate, if it could be shown that claimant received these notifications. Therefore, a failure to return address verifications could reasonably be a violation of a client's responsibilities, meriting case closure.

This interpretation would not support the Department's actions in the current case, however. In order for a claimant to "not cooperate", a claimant would have to be shown to be aware of a cooperation requirement; in other words, claimant would have to be aware that there was an issue with her mail, and that the Department was seeking verifications. The great weight of the evidence in the current case shows that claimant was not aware of the situation until her benefits were terminated; she was not due for a redetermination, and had no reason to be expecting communiqué's from the Department. Furthermore, claimant's mailbox had been stolen, and claimant did not receive any communication from the Department. Claimant being unaware of her situation is not the same as claimant's failure to cooperate. In order to close a

case for this reason, the Department must first show that claimant was actively not cooperating—claimant failing to receive her mail is not evidence of non-cooperation.

However, the fact that the Department requested an in-person interview from the claimant via a DHS-3503 Verification Request shows that the Department was not pursuing a case closure under this theory. Claimant's case was closed because claimant failed to verify an eligibility factor that was unclear or inconsistent, and the Department was unable to determine ineligibility.

PAM 130 does state that verification must be obtained when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. Residence (including address) is an eligibility factor for several programs. PEM 220. As mail being sent to the claimant was returned as undeliverable, and residence (including the claimant's address) is an eligibility factor for some programs, the Department was correct for seeking out further verification from the claimant when her mail was returned, as an inconsistency had developed: claimant had stated that her address was at a specific location, but the U.S. Postal Service was stating that that residence was vacant or did not exist. Therefore, claimant's address was under dispute and was unclear or inconsistent, and could be said to require verification.

Unfortunately, the subsequent manner with which the Department handled claimant's case was not in accordance with policy.

The Department's closure action was for all programs, which in the current case includes both the FIP and the FAP program. PEM 220 states that address verification is not required for the FIP program; the Department sent claimant a request for an in-person interview, ostensibly to verify claimant's address when claimant's mail was being returned as undeliverable. Therefore, the crux of the Department's closure of claimant's FIP case was that claimant failed to verify her

address. Address verification is specifically not required by policy for the FIP program. Thus, the Department was in error when claimant's FIP case was closed for a failure to return address verification.

With regard to the claimant's FAP case, PEM 220 states that the Department must verify that an individual lives in the area that the local office serves. However, benefits cannot be denied solely because an individual lacks a verified address. Furthermore, PEM 554 states that housing expenses must be verified through numerous means, including statements from landlords, rent receipts, or shelter verification forms.

From this, we can infer that address verification is important for Department purposes in order to determine an FAP budget. If claimant had moved, or left the service area, claimant's FAP shelter expenses may not be appropriate for claimant's current budget. However, no policy states that the Department may deny FAP benefits solely for a failure to verify address. Thus, while address and shelter expenses are useful for determining whether shelter expenses can be claimed in an FAP budget, lack address verification cannot be used solely to deny or terminate FAP benefits.

The Department used claimant's failure to return address verifications—in the current case, the failure to attend an in-person interview—as the justification to terminate her FAP benefits. PAM 220 does not allow this, and this action is not supported in policy elsewhere. At most, the Department could have used the failure to return address verifications as a justification to call her claimed shelter expenses in her FAP budget into doubt, and removed the shelter expense. However, full FAP case closure was unwarranted.

Furthermore, as claimant subsequently provided incontrovertible evidence to the Department of her continued residence (and subsequent change of address), had the Department

removed claimant's shelter expense and reduced claimant's FAP allocation, such an allocation would later have been supplemented back to its original amount once claimant provided the Department with verification of her continued residence at the location in question.


Regardless, the Department was in error. Case closure for a failure to verify an address is not supported in policy for the FIP program. For the FAP program, the Department could only have reasonably argued that shelter expenses had to be temporarily removed from her FAP case. Case closure for these programs is not a supported action under the current set of facts.

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 place claimant's FAP and FIP case into closure was incorrect.

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

The Department is ORDERED to reinstate claimant's FAP and FIP case retroactively to the date of case closure, June 2, 2009, issuing any supplemental benefits claimant is entitled to as supported by policy found in the Program Administrative and Eligibility Manuals.



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

Date Signed: 01/21/10

Date Mailed: 01/22/10

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.

RJC/dj

cc:

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