

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.: 2009-36383

Issue No.: 2006/3008

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

October 21, 2009

Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on October 21, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Food Assistance (FAP)?

FINDINGS OF FACT

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

1. The Claimant was a FAP and MA recipient.
2. On June 25, 2009, as part of an annual review, the department sent the claimant a verification checklist requesting income and asset information, due July 6, 2009.
(Department exhibit 3)
3. The claimant made multiple attempts to contact the department seeking assistance.

4. On August 18, 2009, the department closed the claimant's FAP.
5. On September 8, 2009, the Claimant filed a request for a hearing.

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 (formerly known as the Family Independence Agency) 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 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the Department requested employment and income information.

At the hearing it became apparent half way through that an interpreter was necessary. After one was located and sworn in, the claimant testified to having attempted to contact the department numerous times, seeking assistance, to no avail. This ALJ believes that the language barrier was the major cause of the claimant's lack of verification.

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....

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

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. (PAM 130, p. 2-3).

Here, the requested verifications involved the claimant’s employment and assets. I find that the department did not offer assistance or provide an interpreter contrary to the policy cited above. Therefore, the department was in error in closing the claimant’s MA and FAP.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to retroactively reinstate the Claimant’s MA and FAP and replace any lost benefits if applicable.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/04/09

Date Mailed: 12/04/09

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.

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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.

MJB/jlg

cc:

