

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: 2009-5849
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 30, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 April 30, 2009. Claimant personally appeared and testified. A family independence specialist and a family independence manager represented the Department.

ISSUE

Did the Department properly deny Claimant's applications for Food Assistance Program (FAP) and Child Day Care (CDC) benefits on the grounds that she failed to provide requested 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 applied for FAP and CDC benefits on October 28, 2008.
- (2) Claimant sought CDC benefits because she cares for two foster children.

- (3) Two days after submitting her application, she received a verification checklist. Claimant began calling her caseworker to ask questions about the checklist. The Department, for example, sought school records for the children, but the children were not of school age.
- (4) The due date for submitting the requested verifications was November 7, 2008. (Exhibit 2). At some point, the deadline was extended to November 17, 2008.
- (5) Claimant called her Department office several times and made calls to the Lansing office to seek assistance. The Department did not return Claimant's phone calls.
- (6) As a result, about a week later in early November 2008, Claimant went to the Department to speak to her caseworker. Claimant spoke to the worker's supervisor, a family independence manager, who told her to bring in the information "as soon as she could."
- (7) Claimant submitted the verification of her foster care income and her employment verification on the morning of November 18, 2008.
- (8) The Department contends that Claimant's application had already been denied in the morning on November 18, 2008. The Department denied Claimant's application on the grounds that she failed to provide income information to determine eligibility. (Exhibit 1).
- (9) Claimant disagreed with the Department on the grounds that she cooperated with the Department by providing the requested verifications even though the Department would not return her calls seeking assistance with the Department's request for verifications.

- (10) The Department received Claimant's hearing request on December 2, 2008.
(Exhibit 3).

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).

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.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

If a client indicates he/she has a disability that impairs his/her ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information.

Verification is **not** required:

- When the client is clearly ineligible, or

- For excluded income and assets **unless** needed to establish the exclusion.

Types of Verification

All Programs

Use documents, collateral contacts or home calls to verify information.

A **document** is a written form of verification. It may include a photocopy, facsimile or e-mail copy if the source is identifiable.

Permanent documents must be obtained only once. Examples: birth certificate, passports, divorce papers, death notice.

Nonpermanent documents must be current. Examples: driver's license, pay stub, rent receipt, utility bill, DHS-49. (PEM 130, p. 1)

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 necessary forms. (PAM 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. (PAM 105, p. 5)

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0373-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English.

The poster, DHS Publication 478, Help Is Available, must be displayed in the local office lobby. A section of the application form has the same title and information. These documents tell clients that DHS must help persons fill out the application when requested. (PAM 105, pg. 10)

Under PAM 130, the Department is required to verify certain information. Under PAM 105, the Department must assist clients who ask for help. In this case, the Department asserted

that Claimant provided the requested verification on the same day that the application was denied. Claimant, however, had repeatedly called the caseworker to discuss her concerns about the Department's requests. Because she failed to get a response, Claimant visited the office and was told to get the verifications in as soon as she could. Claimant's testimony was found to be credible. Therefore, it is found that she made a reasonable effort to contact the Department for assistance. Then, after eventually talking to a manager, Claimant relied on the manager's statement to submit the verifications as soon as she could. The Claimant returned the verifications on the same morning that her application was denied is consistent with finding that Claimant made a reasonable effort to cooperate with the Department despite the Department's failure to respond to her request for assistance. Under these circumstances, it is found that the Claimant's application should not have been denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly denied Claimant's application for FAP and CDC benefits.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to determine Claimant's eligibility for FAP and CDC and issue any retroactive benefits she is eligible to receive to the original date of her application.

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

Date Signed: 05/07/09

Date Mailed: 05/11/09

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.

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.

TW/dj

cc:

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