

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: 2009-7405

Issue No: [REDACTED]

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 26, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on February 26, 2009. The claimant personally appeared and testified.

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits and remove the claimant's daughter from Medical Assistance (MA) in December 2008?

FINDINGS OF FACT

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

1. The claimant was active on a FAP and MA case when the department received information that the claimant's daughter, [REDACTED], was employed and was receiving income.

2. The department mailed the claimant a Verification of Employment (DHS-38) form to be completed and return by December 11, 2008 (Department Exhibit #1).

3. The claimant's daughter testified that she brought it in to her employer

██████████ and that her employer filled it out and returned it to the DHS office.

4. The department did receive back the Verification of Employment form from the employer. It is date stamped December 11, 2008, and the employer completed and signed it on December 5, 2008 (Department Exhibit #2).

5. While the employer had filled out the form, the employer had left some required boxes blank (Department Exhibit #1—see highlighted areas).

6. The department returned the incomplete form to the claimant, along with a Verification Checklist (DHS-3503), that indicated “you failed to provide a completed Verification of Employment form DHS-38. Please see the highlighted areas.” The Verification Checklist was mailed on December 12, 2008, and did not provide any due date (Department Exhibit #3).

7. The claimant gave the form to her employer again and the employer filled in the highlighted areas. The claimant turned in the Verification of Employment form and a copy of her daughter's first (and only) paycheck stub to the department on or about December 18, 2008 (Department Exhibit #4).

CONCLUSIONS OF LAW

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).

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 (DHS or department) 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).

Department policy states:

**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 the necessary forms. 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.

FAP Only

Do **not** deny eligibility due to failure to cooperate with a verification request by a person **outside** the group. In applying this policy, a person is considered a group member if residing with the group and is disqualified. PAM, Item 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, 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.

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.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

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.

Exception: Alien information, blindness, disability, incapacity, incapability to declare one's residence and, for FIP only, pregnancy

must be verified. Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA. PAM, Item 130, p. 3.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

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.

FAP Only

Do **not** deny eligibility due to failure by a person **outside** the group to cooperate with a verification request. In applying this policy, a person is considered a group member if residing with the group and is disqualified: See **“Disqualified Persons”** in PEM Item 212. PAM, Item 105, p. 5. 7 CFR 273.1.

The department contends that because the claimant didn't provide a completed Verification of Employment form by the due date of December 11, 2008, that they were correct in closing the claimant's FAP case and removing the claimant's daughter, Radionne, from the claimant's MA case. The department did mail the claimant a Verification of Employment and the claimant's daughter's employer did fill it out, sign it on December 5, 2008, and returned it to the department by the due date of December 11, 2008. However, four blanks on the form were not completed by the employer. The department mailed it back to the claimant, but instead of

allowing claimant to have [REDACTED] complete the four sections that had been left blank in error, the department closed the claimant's FIP case and removed the claimant's daughter from the MA case.

The claimant and her daughter clearly made an effort to provide the required verification. The Verification of Employment form was mailed from the employer to the department. Thus, the failure to fill out four blanks on the form is not the claimant's error or her daughter's. The department sent the form back to the claimant and the claimant did have the form completed and returned to the department. This Administrative Law Judge does not understand why the department would return the form to the claimant with a Verification Checklist if they did not intend to give her more time to get the missing information completed. Departmental policy states that if the client can not provide the information within the first ten days, to extend the time limits at least once. Clearly, the claimant made all reasonable efforts to have the form completed and the department did get the information they needed in a timely manner. Thus, it does not appear that the claimant should be punished for the employer's error, which was quickly corrected. The claimant's FAP case should not have been closed and the claimant's daughter should not have been removed from the MA case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted improperly when they closed the claimant's FAP benefit case and removed the claimant's daughter, Radionne, from the claimant's MA case. Accordingly, the department's action is REVERSED. The department shall:

1. Re-open the claimant's FAP case back to the date of closure, December 24, 2008, and issue the claimant any supplemental retroactive benefits that she is entitled to.

2. Place the claimant's daughter back on the MA case retroactive to the date she was removed, December 24, 2008.

SO ORDERED.

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

Date Signed: March 10, 2009

Date Mailed: March 11, 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 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.

[REDACTED]

cc:

[REDACTED]