

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: 2010-12696
Issue No: 3008; 6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 11, 2010
Calhoun 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 11, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) benefits for failure to return the required verification materials in November, 2009?

FINDINGS OF FACT

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

1. On October 23, 2009, the claimant was mailed a Computer Cross-Match Notice that indicated DHS had received information that the claimant had earnings of \$7773 working for [REDACTED] from October 1, 2008 to December 31, 2008. The notice informed the claimant that

she must provide paycheck stubs or have the employer complete the enclosed Verification of Employment form and return it to the department by November 2, 2009.

(Department Exhibit 1 – 3).

2. On October 29, 2009, the claimant called the department and stated that she had already provided the check stubs the department was requesting. The claimant was informed that the department was requesting paycheck stubs from 2008, not 2009.

(Department Exhibit 4).

3. On November 2, 2009, the claimant called the department and requested additional time to turn in the verification. The department informed the claimant that she had until November 22, 2009. (Department Exhibit 5).

4. The department did not receive the verification. On November 25, 2009, the claimant was mailed a Notice of Case Action (DHS-1605), which informed the claimant that her CDC and FAP were closing for failure to provide the verifications. (Department Exhibit 7 – 9).

5. The claimant submitted a hearing request on December 7, 2009.

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 Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained 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.

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.

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.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

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.

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.

Department policy requires a claimant to comply with the department in providing the verification materials necessary to allow the department to determine initial or ongoing eligibility. BAM 105. Department policy further requires claimants to take actions within their ability to obtain verifications. BAM 130. Department policy does allow an extension of time if the claimant requests assistance or additional time. BAM 130.

In this case, it is not disputed that the claimant asked for an extension of time to provide the verification. The claimant was originally supposed to have the completed Verification of Employment form or check stubs turned into the department by November 2, 2009. When the claimant called on November 2, 2009 and stated she needed additional time to provide the income information, the department informed her that she was granted an extension until November 22, 2009.

However, as of November 25, 2009, the claimant still had not provided the verifications and did not call the department again and indicate she needed assistance or additional time. The claimant testified that she lost the Verification of Employment form and needed a new copy. The claimant further testified that when she called her case worker, the voice mail message indicated that she was out of the office. The department representative testified that the local office had been shut down for one and ½ days for “air quality issues.” The department representative pointed out that this was the only time the claimant’s case worker was out of the office. The claimant obviously did not follow up with the case worker or call back to request additional time or assistance.

Department policy indicates that a negative action notice will be sent when the time period given has elapsed and the client has not made a reasonable effort to provide the required verifications. BAM 130. The claimant was provided with over 30 days to provide the

verification to the department and she failed to do so. The claimant was even granted an extension of time to get the material. When the time period given elapsed, the department took action in accordance with department policy and sent a negative action notice closing the claimant's FAP and CDC benefits.

It is noted that the claimant requested a hearing on the closure of her MA benefits. However, the claimant's MA did not close. The claimant testified that her MA was still open and that she did not need to include this as a hearing issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly terminated the claimant's FAP and CDC benefits because the claimant did not return the required verification.

Accordingly, the department's actions are UPHeld. SO ORDERED.

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

Date Signed: April 6, 2010

Date Mailed: April 15, 2010

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.

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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.

SLK [REDACTED]

cc: [REDACTED]