

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: 2010-14010
Issue No: 2006; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 10, 2010
Washtenaw 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 10, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits for failure to return the required verifications in December, 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. The claimant was mailed a Verification of Employment for her two employers to complete on October 30, 2009. (Department Exhibit 1 – 3).
2. The department indicates they did not receive either completed form.

3. The claimant's case closed for failure to provide the required verifications. The claimant was mailed the Notice of Case Action on November 19, 2009.

4. The claimant submitted a hearing request on December 3, 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 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.

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.

The claimant testified that she did receive the Verifications of Employment forms (DHS-38) to have her employers complete. The claimant testified that she gave the form to the person she performs home health services for and that the completed form was faxed to the Department of Human Services. The claimant further testified that she gave the Verification of Employment for Arcadia to the human resource person and thought the person had faxed the completed form back to the department. The claimant testified that she did not know her employer had failed to send it to DHS until she received notice of her case closure.

The department testified that they did not receive either Verification of Employment form. The forms were mailed to the claimant on October 30, 2009 and due back to the department by November 9, 2009. The department testified that the claimant's case did not close until December 1, 2009, which gave the claimant additional time to submit the forms. The department representative testified that neither completed Verification of Employment form was returned to the department and that the claimant did not request any additional time to get the forms completed.

Department policy requires claimants to cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105. Department policy dictates that the department allow the client ten calendar days to provide the verification you request. If the claimant can not provide the requested verifications and requests an extension from the department, additional time can be given. BAM 130.

In this case, the claimant did not call the department or request additional time to get the verifications completed and returned. The claimant was given the standard ten days to return the material. The responsibility must be on the claimant to ensure that the forms are received by the department. The claimant testifies that she gave the form to her employers, but did not follow-up with the employers or with the department to ensure they had been completed and returned.

Department policy directs the department to close benefits when necessary verifications are not received. BAM 130. In this case, when the verifications were not returned within the time period allowed, the department properly terminated the claimant's benefits.

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 MA benefits because the claimant did not return the required verifications to allow the department to determine continued eligibility.

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: March 31, 2010

Date Mailed: April 6, 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.

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.

IR [REDACTED]

cc: [REDACTED]