

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.: 2010-21336
Issue No.: 2006, 3004,
3008, 6015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 24, 2010
Oakland County DHS (04)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on March 24, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant refused to cooperate in providing pension/retirement fund verification to DHS?

FINDINGS OF FACT

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

1. Prior to January 19, 2010, Claimant was receiving Food Assistance Program (FAP) benefits.

2. On January 19, 2010, Claimant applied for Medical Assistance (MA or Medicaid).
3. Also on January 19, 2010, DHS sent a Verification Checklist to Claimant asking that she submit verification of medical expenses, non-heat electric expenses, and checking and savings account records. The verification was due January 29, 2010.
4. On January 22, 2010, DHS sent a second Verification Checklist to Claimant requesting verification of her pension income. The verification was due February 1, 2010.
5. On February 1, 2010, DHS denied MA benefits to Claimant and terminated her ongoing FAP benefits based on failure to provide verification. The prospective date of Claimant's termination from FAP benefits was March 1, 2010.
6. On February 4, 2010, Claimant requested a hearing in a written Notice to DHS.
7. On February 5, 2010, Claimant provided the documentation that she had. She did not provide verification of her pension income. Claimant wrote at the top of her gas bill, "Pleace (sic) Sutting (sic) Can you help me (illegible)."
8. On February 18, 2010, Claimant submitted to DHS a Key Bank account statement which shows a direct deposit from Claimant's retirement fund. The bank statement does not indicate the type of retirement fund Claimant has (e.g., IRA) or the total amount in the retirement fund, and it does not reflect the fact that Claimant's monthly distributions might vary from month to month.

CONCLUSIONS OF LAW

The Medical Assistance (MA or Medicaid) program was established by Title XIX of the Social Security Act and is implemented by CFR Title 42. DHS administers MA pursuant to MCL 400.1 *et seq.*, and MCL 400.105. The DHS MA policies are found in the Bridges Administrative Manual (BAM) and the Bridges Eligibility Manual (BEM). The manuals are available online at www.mich.gov.

The Food Assistance Program (FAP), formerly known as the Food Stamp program, was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. The DHS FAP policies are also found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). These manuals are available online at www.mich.gov.

Under BAM 105, customers must cooperate with the local DHS office in determining initial and ongoing eligibility. This includes completing necessary forms. Customers must take actions within their ability to obtain verification. The local DHS office must assist customers who ask for help in completing forms or gathering verification. Particular sensitivity must be shown to customers who are illiterate, disabled, or not fluent in English. DHS must allow the client ten calendar days (or other time limit specified in policy) to provide the requested verification. BAM 105, pp. 5, 8 and 10; BAM 115, p. 4.

If the client cannot provide verification despite a reasonable effort, DHS must extend the time limit at least once. DHS is to send a negative action notice when (1) the client indicates a refusal to provide a verification, or (2) the time period given has elapsed and the client has not

made a reasonable effort to provide it. Only adequate notice is required for denial of an application. If there is a discrepancy between the information from a third-party source and the information from the client, DHS must give the client a reasonable opportunity to resolve the discrepancy before determining eligibility. BAM 130, pp. 5-6.

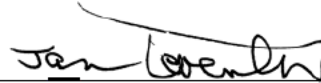
DHS is required to send a timely notice of a negative action, such as a denial, at least eleven days before the intended negative action is scheduled to take effect. The negative action is held in abeyance to provide the customer a chance to react to the proposed action. BAM 220, p. 4.

The Administrative Law Judge, based on the BAM sections and the findings of fact above, concludes that Claimant cooperated with DHS in providing verification and did not refuse to cooperate. Claimant requested assistance in writing before the proposed cutoff of her FAP benefits, but DHS did not provide assistance. She provided pension verification by submitting her Key Bank statement, but it was not until the March 24, 2010, hearing that the Supervisor talked with her and Claimant explained that there was a management firm handling the retirement fund she earned as an employee at [REDACTED]. Claimant also explained that her daughter could help in finding the name and phone number of the management firm in order to obtain the necessary verification. I also note that Claimant has limited fluency in English and DHS was not responsive to this difficulty as required by the regulations.

I determine that Claimant made a reasonable effort to provide DHS with the necessary information. I determine that DHS did not provide Claimant with assistance in a timely fashion and an extension of time as required by DHS policies. The DHS action is, therefore, erroneous and shall be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS' denial of FAP and MA benefits to Claimant is REVERSED. The Department is Ordered to initiate a redetermination of Claimant's eligibility for FAP and MA benefits, in accordance with applicable law and policy.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 6, 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.

JL/mf

cc:

