

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: 2010-33931

Issue No: [REDACTED]

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 20, 2010

St. Clair 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 July 20, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Adult Medical Program (AMP), Food Assistance Program (FAP) and State Disability Assistance (SDA) benefits for failure to return the required redetermination materials in April, 2010?

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's FAP, AMP and SDA case came due for a redetermination during the month of April, 2010. (Department Exhibit 5 - 8)

2. The claimant was mailed a Redetermination form (DHS-1010) on March 16, 2010. The redetermination materials were due back to the department by April 9, 2010, when the claimant's in person interview was scheduled. (Department Exhibit 5 -8)

3. The claimant did not return the Redetermination form and did not attend the personal interview. The department mailed the claimant a Notice of Case Action (DHS-1605) on April 19, 2010, informing him that his AMP and SDA were closing. The claimant's FAP closed at the end of the redetermination period. (Department Exhibit 1 - 4)

4. The claimant submitted a hearing request on April 28, 2010.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. 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. BAM, 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. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, 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. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, 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. BAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, 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. BAM, 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. BAM, 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. BAM, Item 130, p. 4.

The claimant is required to comply with the department in providing the verification materials necessary to allow the department to determine initial or ongoing eligibility. BAM 105. In this case, the claimant failed to return his Redetermination form and failed to participate in the redetermination interview. Department policy indicates that a complete redetermination is

necessary at least every 12 months. BAM 210. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is established. BAM 210. In this case, the department did not receive any redetermination materials and was unable to conduct an interview with the client, so the FAP benefit period was allowed to expire. No information was provided to allow the department to determine current benefits.

Similarly with the AMP and the SDA, the claimant failed to provide any verifications of his eligibility to continue in the AMP program. Department policy indicates that failure to provide proof eligibility will result in penalties. BAM 105, 130. In this case, the department could not determine the claimant's continued eligibility for the AMP and SDA programs and the programs were closed.

The claimant testified that he did not receive the redetermination materials for his annual review of AMP, SDA and FAP benefits. The claimant testified that the department was using the proper mailing address at the time the Redetermination materials were mailed. The department testified that they did not receive any mail "returned to sender" for the claimant. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, the claimant testified that he lived in a rooming house and hadn't had problems with his mail prior to this incident. This Administrative Law Judge finds that the department did properly address and mail the letter and that the claimant has not presented evidence which would overcome the presumption of receipt of the mail. Thus, this Administrative Law Judge is unable to find that the department was wrong in its determination to close the SDA and AMP and let the FAP benefit period expire.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's SDA and AMP benefits and allowed the FAP benefit period to expire because the claimant did not return the required verifications for his redetermination.

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: July 27, 2010

Date Mailed: July 29, 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 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.

SLK [REDACTED]

cc: [REDACTED]