

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.: 2010-4078
Issue No.: 3025/2005
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
February 1, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on February 1, 2010. The Claimant appeared and testified. [REDACTED] FIS appeared on behalf of the Department.

ISSUE

Was the Department correct in excluding household member [REDACTED] from the household for failing to verify his alien status?

FINDINGS OF FACT

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

- (1) Claimant was a Food Assistance benefit recipient receiving \$526 per month in benefit for a household of 3. Claimant's benefit was reduced to \$367 in October 2009 for a household of 2 after household member [REDACTED] was excluded from the household.
- (2) Claimant submitted an employment authorization card for [REDACTED] at hearing.

- (3) The Department determined that household member [REDACTED] could not be included in the household because his immigration status was not verified.
- (4) Claimant requested a hearing on October 16, 2009 contesting the determination of Food Assistance and Medicaid eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental 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 (formerly known as the Family Independence Agency) 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).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If

the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the Department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6. Obtain verification when: Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The client must obtain required verification, but you must assist if they need and request help. BAM 130 The Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130

Department policy provides for FAP, a person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 225

In the present case, whether household member [REDACTED] is currently a resident alien is unclear. Department policy requires that verifications be requested when information regarding an eligibility factor is unclear. BAM 130 No checklist was sent to the Claimant telling her what verifications were required, how to obtain it and the due date. Claimant asserts that [REDACTED] is a resident alien and points out that he does have an employment authorization card, which was presented at hearing. The Department must assist in obtaining verifications if help is needed. BAM 130 Claimant has not refused to provide verification or failed to make a reasonable effort.

Claimant cooperated by providing the information and documentation she had at her disposal. It was incorrect to make an eligibility determination and to exclude Basam Petros from the household for failing to provide verifications when the Department did not clearly explain

what verifications were needed. This decision does not have bearing on the Department's future determinations regarding the alien status of [REDACTED] once further verifications are obtained.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was not correct to exclude Basam Petros from the household for failing to verify his immigration status and it is ORDERED that the Department's decision is hereby REVERSED. Basam Petros shall be included in the household and FAP and MA benefits shall be reinstated and rebudgeted to reflect his inclusion and a supplement shall be paid for any lost benefits.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/30/2010

Date Mailed: 3/30/2010

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.

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