

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: 2010-4559
Issue No: 2005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 16, 2010
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, a telephone conference hearing was held on March 16, 2010.

ISSUE

Did the DHS properly deny claimant's MA-P and SDA application on the grounds that claimant failed to comply with the department's verification request.

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 4/28/09 claimant applied for MA-P, SDA and FAP with the Michigan DHS.
- (2) On 4/28/09 claimant was given a Verification Checklist (DHS-3503) requesting that claimant provide verification of citizenship. Exhibit 1. The Verification Checklist indicates that the verification was due by 5/12/09.

(3) The department contends that claimant did not deliver the verification. Claimant contends that she did deliver the verifications. Evidence in the department's file shows a birth certificate and social security card date stamped at the local on 9/2/09.

(3) On 8/19/09 the DHS issued denied claimant's 4/28/09 application by the 5/12/09 due date. The department testified it did not process the application for three months due to Bridges being implemented by the 5/12/09 due date.

(5) Claimant's FAP case was subsequently opened back to the date of application on the grounds that verification of citizenship is not required under the FAP program.

(6) Income in the household during the month of application showed over \$ [REDACTED]. There is no SDA eligibility.

(7) On 8/24/09 claimant filed a hearing request.

CONCLUSIONS OF LAW

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).

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).

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).

Applicable citizenship policy and procedure is found primarily in BEM Item 225. This item indicates that citizenship verification is required for most programs. Citizenship verification is not required for FAP unless there is reason to suspect that an individual is not a citizen. The exception is not applicable to the case herein.

General verification policies and procedures states in part:

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.

Protect client rights. PAM, Item 105, p. 1.

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. PAM, Item 105, p. 5.

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or the start date of employment. PAM, Item 105, p. 7.

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.

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.

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.

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.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- . required by policy. PEM items specify which factors and under what circumstances verification is required.
- . required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- . information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

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

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

The department has the burden of proof to establish that it followed its procedure and policy in taking the acting. At first, the department seemed confused about which programs required verification of citizenship. In the end, evidence indicates that the department opened the FAP case retroactive to the month of application. Thus, there is no FAP issue herein.

With regards to MA and SDA, policy does require verification of citizenship for both of these programs pursuant to BEM Item 225. The department followed its policy and procedure in issuing a verification checklist requesting verification of citizenship. Exhibit 1. The due date was 5/12/09.

The department has presented a prima facia case that it followed its policy and procedure.

Claimant indicated that she delivered the verification prior to the May 12, 2009 due date. However, the only evidence of verification which was a birth certificate and social security card was date stamped at the local office on 9/2/09. Claimant has no contrary documentary evidence.

It is noted that claimant seemed confused about the dates. Claimant testified extensively about a June, 2009 application. However, claimant's application at issue herein was actually 4/28/09. At the same time, the department failed to timely process this application – it took three months. The department denied on 8/19/09. However, the department's incompetence in timely processing this case will not entitle claimant to prevail where there would otherwise be no eligibility. There is no evidence that verification was timely returned. The 9/2/09 date stamp will still be on the final denial date of 8/19/09. Under these facts and circumstances, this ALJ must uphold the department's denial. The evidence was in favor of the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's actions were correct.

Accordingly, the department's denial here is upheld.

/s/

Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 24, 2010

Date Mailed: March 26, 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 mailing date of the rehearing decision.

JS/lk

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