

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: 2010-12580

Issue No: 2006; 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 2, 2010

Berrien 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 2, 2010. The claimant personally appeared and provided testimony, along with her husband, [REDACTED]

ISSUE

Did the department properly terminate the claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits for failure to return the required redetermination materials in October, 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's FAP and MA case came due for a redetermination during the month of September, 2009. (Department Exhibit 1).

2. The claimant was mailed a Redetermination form (DHS-1010) on September 15, 2009, scheduling a telephone interview for October 1, 2009 and requiring the claimant to complete the form and return it by October 1, 2009. The Redetermination form was mailed to the claimant at the [REDACTED]. (Department Exhibit 1, pages 1 – 5).

3. The claimant did not return the Redetermination form or participate in the telephone interview. The claimant was mailed a Notice of Missed Interview (DHS-254) on October 2, 2009 (also to the [REDACTED] address). (Department Exhibit 2, page 6).

4. The claimant was mailed a Notice of Case Action (DHS-1605) on November 19, 2009, informing her that her case was closing due to the failure to return the Redetermination form (to the [REDACTED]). (Department Exhibit 3, pages 1 – 5).

5. The claimant submitted a hearing request on November 30, 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 redetermination materials for her annual review of her MA and FAP benefits. The claimant testified that she did not return the materials to the department because she had moved back in with her husband and called the department to find out what documentation she needed to submit for this change. The claimant further testified that she did not receive any telephone calls back from the department, so she did not return the Redetermination form.

The claimant testified that she was having some trouble with her mail because she moved from the address on [REDACTED] back to the marital home on [REDACTED] on September 30, 2009. The claimant testified that she called the department in the beginning of October and reported the address change. The department does not have a record of when the claimant reported her address change. The department representative also testified that he no longer has his telephone logs to be able to check if the claimant called him during this time period.

Despite the address and mail issues, the claimant did testify that she received the redetermination packet and Notice of Missed Interview. The claimant testified that she did not return the redetermination packet because she didn't know how to report that she was now living back with her husband and include him in the program group.

Department policy requires clients to cooperate with the local office in determining initial and ongoing eligibility, which includes completion of the necessary forms. BAM 105. The instructions on the Redetermination form are clear on how to proceed with the form. The Redetermination form indicates that the completed form must be turned in prior to the due date listed and that if the claimant does not complete the form and return it with proofs, her benefits may be reduced or denied. Further, it directs clients to cross out any incorrect information and write the correct information in the space provided. It also directs a claimant to use the client comments section, if necessary.

Thus, it would seem that the claimant could easily have crossed out the old address and put the new address next to it, added her husband to the members of the household listed and provide his income source, amount and proof of income. This would have stopped the claimant's FAP case from closing at the end of the benefit period (October 31, 2009). Even if

the Redetermination form had been submitted prior to the negative action date, the claimant could have averted the case closure.

Since the claimant did receive the forms and failed to complete and return them to the department, the department allowed the FAP benefit period to expire on October 31, 2009. The claimant had not participated in the redetermination process and the department was unable to determine her ongoing eligibility for FAP benefits.

It is noted that the claimant also requested a hearing on the closure of her MA benefits. The claimant's MA benefits did not terminate until December 31, 2009. The claimant reapplied for FAP and MA benefits on January 15, 2010. Thus, as long as the claimant is eligible, she will receive MA benefits for the month of January, 2010. Therefore, there is no period of time that she will not have MA coverage.

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 redetermination materials and participate in a telephone interview in October, 2009

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: April 8, 2010

Date Mailed: April 15, 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.

SLK [REDACTED]

cc: [REDACTED]