

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: 2010-1293
Issue No: 1005, 2006, 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 27, 2009
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 27, 2009. Claimant was present and testified. Mike Conrod, FIM, appeared on behalf of the department.

ISSUES

- 1) Did the Department of Human Services (department) properly close claimant's ongoing Food Assistance Program (FAP) benefits for failure to return a semi-annual contact report?
- 2) Did the department properly deny claimant's August 25, 2009 Family Independence Program (FIP), Food Assistance Program (FAP) and Medical Assistance Program (MA) application for failure to provide verifications?

FINDINGS OF FACT

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

Ongoing FAP benefits

(1) Claimant was an ongoing recipient of FAP benefits.

(2) On August 12, 2009, the department mailed claimant a Notice of Potential FAP Closure, effective August 31, 2009, indicating that claimant had not returned the Semi Annual Contact Report mailed to her which was due by August 1, 2009. (Department Exhibit 2, pg. 4)

(3) Claimant called her case worker who explained the FAP case was not up for re-determination so the Notice of Potential Closure was sent in error and claimant did not need to return any documents or information for her FAP benefits.

(4) On August 31, 2009, claimant's FAP benefits closed.

New Application.

(5) On August 25, 2009, claimant filed an application for FIP, FAP and MA benefits.

(6) On August 25, 2009, the department issued a Verification Checklist to claimant to provide verification of her loss of employment and income with a due date on September 8, 2009. (Department Exhibit 1, pg. 1)

(7) Claimant contacted the department on September 8, 2009 for assistance with obtaining the employment verifications and provided contact information for the employer.

(8) On September 15, 2009, claimant faxed the department a copy of what she believed was her last pay stub, again providing contact information for the employer and requesting to be contacted for an update on her case. (Department Exhibit 2, pg. 2)

(9) The department contacted the former employer, who would only confirm claimant was no longer an employee and did not provide the date employment ended or amount of the last pay check.

(10) On September 19, 2009, the department issued a Notice of Case Action indicating that the FIP application was denied and claimant's MA would close October 1, 2009 for failure to verify information. (Claimant Exhibit A, pgs. 2-3)

(11) Claimant filed a hearing request on September 25, 2009 to contest the FAP, FIP and MA determinations.

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 Manuals.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manuals.

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

Under BAM 105, clients must cooperate with the local office in determining initial and ongoing eligibility. The department is to request verification when required by policy, when required by local office option, or when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130. The department is to allow at least 10 days to provide the verification requested. BAM 105. For the MA program, a negative action notice is to be sent when the client indicates refusal to provide a verification or the time period given has elapsed. BAM 130. For the FIP and FAP programs, a negative action notice is to be sent 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 130. The department must also help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. BAM 130.

Ongoing FAP

In the present case, claimant testified she received the On August 12, 2009 Notice of Potential FAP Closure effective August 31, 2009 indicating that she had not returned the Semi Annual Contact Report mailed to her which was due by August 1, 2009. (Department Exhibit 2, pg. 4) Claimant testified she then called her caseworker, who explained the FAP case was due for a review. Therefore, the caseworker told claimant that the Notice of Potential closure was sent in error and claimant did not need to return any documents or information for her FAP benefits. It is noted that the department recently switched to a new computer system and there

have been errors in many cases statewide due to this transition. However, on August 31, 2009 claimant's FAP benefits did close.

Claimant's caseworker was not present at the hearing, however, no evidence was presented to contest claimant's testimony. The department representative at the hearing did not argue that the FAP benefits were actually due for a review or that claimant was even mailed a Semi Annual Contact Report to complete and return by August 1, 2009.

Based upon the foregoing facts and relevant law, it is found that the department erred in closing claimant's FAP benefits effective August 31, 2009 for failure to return the Semi Annual Contact Report. The Notice of Potential Closure appears to have been issued in error and claimant credibly testified that she contacted the department to make sure no information was needed for her FAP case. The claimant did not refuse or fail to provide information and the department has not proven that claimant was actually mailed a Semi Annual Contact Report to complete and return or that her FAP case was actually due for a redetermination in August 2009. Accordingly, the department shall re-instate claimant's FAP benefits retroactive to the August 31, 2009 closure.

New Application

On August 25, 2009 claimant filed an application for FIP, FAP and MA benefits. The department did not act on the FAP portion of the application because at that time, claimant's FAP benefits were already open. Regarding the FIP and MA benefits, the department issued a Verification Checklist on August 25, 2009 for claimant to provide verification of her loss of employment and income with a due date on September 8, 2009. (Department Exhibit 1, pg. 1)

Claimant testified she contacted the department on September 8, 2009 for assistance with obtaining the employment verifications and left a voice mail with the employer contact information. On September 15, 2009, claimant also faxed the department a copy of what she

believed was her last pay stub, contact information for the employer and request to be contacted for an update on her case. (Department Exhibit 2, pgs. 2-3)

The department representative testified that the caseworker did contact the former employer. However, the employer would only confirm claimant was no longer an employee and did not complete a DHS 38-Verification of Employment or even verbally provide the date employment ended or amount of the last pay check. The department representative at the hearing agreed that claimant could not have done anything further to verify this information and the problem was with a third party, the employer, failing to cooperate with the verification process. However, on September 19, 2009, the department issued a Notice of Case Action that the FIP application was denied and claimant's MA would close November 1, 2009 for failure to verify information. (Claimant Exhibit A, pgs. 2-3)

Based upon the foregoing facts and relevant law, it is found that the department erred in denying the FIP benefits and closing the claimant's MA benefits effective October 1, 2009 for failure to provide verifications. Claimant was cooperating with the department and made reasonable efforts to provide the verifications and contact information so the department could assist in gathering the needed information. It was a third party, claimant's former employer, who refused to cooperate. Therefore, the department shall reinstate the August 25, 2009 FIP application and reinstate claimant's MA benefits retroactive to the November 1, 2009 closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not provided sufficient proof that the client refused to provide verifications or that the client had not made a reasonable effort to provide information to the department.

Accordingly, the department's FAP, FIP and MA determinations are REVERSED.

Therefore, the department shall re-instate claimant's FAP benefits retroactive to the August 31, 2009 closure, reinstate the August 25, 2009 application for FIP benefits, and reinstate claimant's MA benefits retroactive to the November 1, 2009 closure and award benefits to claimant, if appropriate, in accordance with this decision.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 3, 2009

Date Mailed: November 4, 2009

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.

CL/cv

cc:

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