

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: 2010-1726

Issue No: 1005; 5008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 3, 2009

Muskegon 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 November 3, 2009. Claimant was present and testified. Brenda Hodson, FIM, and Tamia McGlothlin, FIS, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly deny claimant's Family Independence Program (FIP) and State Emergency Relief (SER) application after mail was returned by the post office as undeliverable?

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 July 9, 2009, claimant applied for FIP and SER benefits listing a mailing address of [REDACTED]

(2) On July 22, 2009, the department mailed claimant a Verification Checklist and Appointment Notice to [REDACTED]

(3) On July 27, 2009, the Verification Checklist and Appointment Notice were returned to the department office by the post office as “Return to Sender No Such Number Unable to Forward” (Department Exhibit 1, pg. 1)

(4) On July 30, 2009, the department denied the FIP and SER application.

(5) On July 30, 2009, the department also re-mailed the returned forms as well as a Shelter Verification Form and Notice of Case Action to the correct mailing address as listed on claimant’s application, [REDACTED]. (Department Exhibit 1, pgs. 2-4)

(6) On August 3, 2009, the forms were again returned to the department by the post office as undeliverable. (Department Exhibit 1, pg. 3)

(7) Claimant testified the [REDACTED] address is a valid mailing address. This is her sister’s house and she was using it for a mailing address in July 2009 because she knew she had to move out of the shelter where she was living by August 10, 2009.

(8) Claimant testified she spoke with the postal carrier who explained that mail forwarding to the sister’s address from a previously filed change of address for claimant expired at the end of June, therefore all the mail sent to claimant at the sister’s address had been returned.

(9) Claimant filed a hearing request to contest the FIP and SER determinations on August 11, 2009.

CONCLUSIONS OF LAW

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 State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. 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 10 days to provide the verification requested and 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.

In the present case, the department initially mailed the Verification Checklist and Appointment Notice to an incorrect address on June 22, 2009. These forms were returned by the post office on July 27, 2009 as “return to sender no such address unable to forward.” (Department Exhibit 1, pg. 1) The department testified they corrected the address and re-mailed these forms on July 30, 2009. The documents in evidence show a Shelter Verification and Notice of Case Action were also mailed to claimant on July 30, 2009. However, the department also denied the application on July 30, 2009 despite their error in mailing the forms to an incorrect address.

The department representative present at the hearing testified that she would have reinstated the application had the claimant timely returned the information requested on the forms that were mailed to her on July 30, 2009. However, the forms mailed by the department on July 30, 2009 were again returned by the post office as undeliverable on August 3, 2009. Therefore the department representative did not reinstate the application and the July 30, 2009 denial remained in effect.

Claimant provided credible testimony that the post office improperly returned the documents mailed by the department on July 30, 2009. Claimant had previously filed a change of address with the post office to have mail forwarded from a [REDACTED] address to her sister’s home on [REDACTED]. Claimant spoke with the postal carrier who explained that the mail forwarding from the change of address had expired in June 2009 and, therefore, all the mail sent to claimant at the [REDACTED] address was being returned to sender. This was a post office error because mail correctly addressed to claimant at the [REDACTED] address would not have required forwarding and should have been delivered as addressed. The only mail that should have been returned to the sender would have been mail sent to the old address on [REDACTED], as this would have required forwarding to the new address on [REDACTED]. The documents the

department sent to claimant at the correct [REDACTED] address did not require forwarding and should not have been returned to the department by the post office as undeliverable.

Additionally, the department's hearing summary indicates the returned mail may not have been the only reason for the denial of the application. The hearing summary states that FIP was also denied for failure to attend an in-person interview and participate in WF/JET orientation, and SER was denied due to lack of affordability. As noted above, the department denied the application on July 30, 2009, the same date a request for additional information needed to make an eligibility determination was mailed to the correct address. Without allowing claimant a chance to provide the requested verifications, the department did not have complete information to review and determine SER eligibility and claimant was not given notice to attend the in-person interview or JET program as required for the FIP program.

Based upon the foregoing facts and relevant law, it is found that the department erred in denying the FIP and SER application on July 30, 2009. The department re-mailed the documents to the corrected address that same day and did not allow claimant a chance to respond to the request for additional information, attend the interview or participate in JET prior to the denial. Further, claimant's case should not be penalized for the post office error in returning the documents correctly addressed to her at the [REDACTED] address. Therefore, the department shall reinstate the July 9, 2009 application for FIP and SER benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department erred in denying the FIP and SER application on July 30, 2009, the same day they re-mailed the request for verifications to claimant's correct mailing address. Further, the claimant should not be penalized for the post office error in returning as undeliverable, documents the department sent to her at the correct mailing address.

Accordingly, the department's determination is REVERSED. Therefore, it is ORDERED that the department reinstate the July 9, 2009 FIP and SER application.

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

Date Signed: November 10, 2009

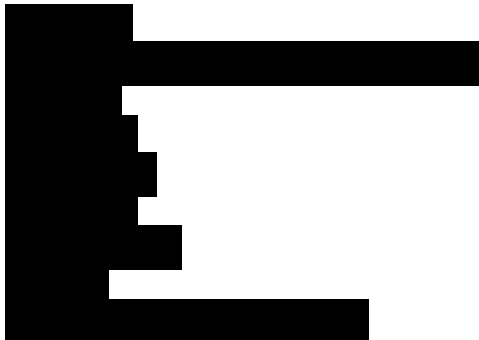
Date Mailed: November 12, 2009

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.

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