

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: 2010-5296
Issue No: 2006; 3008; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 13, 2010
Ingham 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 January 13, 2010. The claimant personally appeared and provided testimony, along with her aunt, [REDACTED]. The record was left open until January 27, 2010 to allow the department to submit additional, requested information.

ISSUES

1. Did the department properly deny the claimant's July 6, 2009 Food Assistance Program (FAP), Medical Assistance (MA) and Child Development and Care (CDC) application to add her child and grandchild back into her program group?
2. Did the department properly terminate the claimant's FAP, CDC and MA for failure to return the Redetermination form 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. On July 6, 2009, the claimant applied to have [REDACTED] (her daughter) and [REDACTED] (her granddaughter) added back into her program group for FAP, CDC and MA. (Department Exhibit 14 – 29).

2. On July 6, 2009, the claimant submitted a school enrollment form that indicated [REDACTED] (her father's address). (Department Exhibit 46).

3. On July 13, 2009, the caseworker left the claimant a voice mail and told her she would need further verification of where [REDACTED] were living, as they were currently active on their father's case. (Department Exhibit 4).

4. On July 13, 2009, the department mailed the claimant a Verification Checklist (DHS-3503) requesting verification that [REDACTED] were now living with the claimant. (Department Exhibit 3, 47).

5. On September 9, 2009, the claimant's application to add [REDACTED] was denied as both of the children were active on another case and the claimant had not provided verification to show they were back living in her home. (Department Exhibit 1).

6. The claimant's CDC, MA and FAP came due for a redetermination for the month of October. On September 15, 2009, the claimant was mailed a Redetermination form (DHS-1010) and a Redetermination Telephone Interview (DHS-574). The Redetermination form was to be completed and returned by the claimant by October 6, 2009. The telephone interview was scheduled for October 6, 2009 at 4:00 pm. (Department Exhibit 48 – 52).

7. On October 6, 2009, the claimant signed into reception log and indicated she was turning in a State Emergency Relief (SER) application for a shut-off. (Department Exhibit 55).

8. On October 6, 2009, the claimant called the case worker and indicated that she had dropped off an SER and needed another copy of the Redetermination form (DHS-1010). (Department Exhibit 57).

9. On October 6, 2009, the caseworker reprinted the Redetermination form and mailed it to the claimant. (Department Exhibit 54).

10. On October 6, 2009, the claimant was mailed a Notice of Missed Interview (DHS-254), which informed her that she hadn't completed the scheduled interview and that she needed to reschedule the interview prior to October 31, 2009. (Department Exhibit 58).

11. The department did not receive the completed Redetermination form and the claimant was mailed a Notice of Case Action (DHS-1605) on October 19, 2009, informing her that her CDC, MA and FAP were closing due to the failure to participate in the redetermination process. (Department Exhibit 63 – 65).

12. The claimant submitted two hearing requests on October 26, 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 Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained 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:

FOOD ASSISTANCE PROGRAM GROUP COMPOSITION

DEPARTMENT POLICY

You must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

To establish FAP group composition determine:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and

4. Whether the person(s) resides in an eligible living situation. (See “LIVING SITUATIONS” in this item.)

PEM, Item 212, p. 1.

Changes in Primary Caretaker

Re-evaluate Primary Caretaker status when:

- . a new or revised court order changing custody or visitation is provided, **or**
- . there is a change in the number of days the child sleeps in another caretaker’s home and the change is expected to continue, on average, for the next twelve months; **or**
- . a second caretaker disputes the first caretaker’s claim that the child(ren) sleeps in his/her home more than half the nights in a month, when averaged over the next 12 months, **or**

a second caretaker applies for assistance for the same child. PEM, Item 212, p. 4.

VERIFICATION REQUIREMENTS

Verify group composition factors if the information given is questionable. Such factors might include boarder status, aged or senior members, and inability to purchase and prepare meals separately.

Primary Caretaker

Accept the client’s statement regarding the number of days per month (on average) a child sleeps in their home. Verify only if questionable or disputed by the other parent.

VERIFICATION SOURCES

Primary Caretaker

- . The most recent court order that addresses custody and/or visitation.

- . School records indicating who enrolled the child in school, first person called in case of emergency, and/or who arranges for the child's transportation to and from school.
- . Child care records showing who makes and pays for child care arrangements, who drops off and picks up the child
- . Medical providers' records showing where the child lives and who usually brings the child to medical appointments.
- . Other documents or collateral contacts that support the caretaker's claim

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’s application to add [REDACTED] and [REDACTED] was denied by the department on September 9, 2009, because both children were active on another person’s case. The claimant disputes that this action was proper.

Department policy indicates that group composition is figured by the relationship of those that live together. Primary caretaker status is the person who primarily is responsible for the day-to-day care of a child. BEM 212. This is to be re-evaluated in certain situations, such as when the status is questionable or disputed by the other parent. BEM 212.

In this case, the claimant testified that the children were removed from her case back in May, 2009 and placed on their father/grandfather's case at that time. It is noted that while the claimant now indicates that her daughter and granddaughter were just there for "a cooling off period after a fight", the claimant did not dispute the removal of the children from her case by filing an administrative hearing. Further, the removal of the children from her case is now over 90 days old and not a justiciable issue.

Therefore, as the children were active on another case when she applied for benefits for them, department policy requires the department to obtain verification of that primary caretaker status change. BEM 212. The claimant presented an enrollment printout from [REDACTED] school, but it had [REDACTED] home address listed. The claimant was advised that this was not sufficient, as it showed [REDACTED] was the primary caretaker. The claimant was issued a Verification Checklist to provide additional documentation, and failed to do so. Thus, the application was properly denied due to failure to verify the children were now residing with the claimant. When this Administrative Law Judge asked if the claimant had custody paperwork for [REDACTED], she indicated that she did possess court documents showing she had custody. Thus, it is unknown why the claimant did not present this information to the department when the Verification Checklist was received.

The claimant testified that she did receive the redetermination materials for her annual review of her MA, FAP and CDC benefits. The claimant testified that she brought in the

redetermination materials to the local DHS office on October 6, 2010, at the same time she turned in a SER application. The claimant's case worker provided a copy of the reception logs from October 6, 2009. The log from October 6, 2009, shows the claimant came into the local office at 11:46 am and turned in a SER application for a shut-off. There is no indication that the claimant submitted her Redetermination form.

Further, the claimant's case worker provided a telephone log from October 6, 2009. This log shows that the claimant called on October 6, 2009 and indicated that she dropped off an SER and needed another copy of the 1010 (Redetermination form). There would clearly be no reason the claimant would need another copy of the Redetermination form if she had turned in the completed form that very day as she testified. The claimant's case worker testified that she had never received the completed redetermination form or required verifications at any time. In fact, the department representative provided a copy of the BRIDGES print screen that shows the case worker printed off another copy of the Redetermination form on October 6, 2009, after receiving the claimant's request for another copy, and mailed it to the claimant.

The claimant further testified that she called the department on October 21, 2009 to ask the department to reschedule her interview, which she missed on October 6, 2009. However, the case worker provided all of her telephone messages from the claimant and these logs show the claimant did not call on October 21, 2009. The only October telephone call from the claimant is on October 6, 2009, when the claimant indicated she had dropped off an SER and needed an additional copy of the Redetermination form. The case worker kept meticulous telephone records and provided this Administrative Law Judge with copies of all of the calls from the claimant. Thus, the case worker is completely credible in her testimony that she did not ever receive a completed Redetermination form or a telephone call to reschedule the interview.

Thus, there is not credible evidence the claimant submitted the required verifications for her redetermination. Nor did the claimant participate in the telephone interview. Department policy does require an interview for redeterminations. PAM 210. The claimant is required to comply with the department in providing the verification materials necessary to allow the department to determine initial or ongoing eligibility. PAM 105. In this case, the claimant failed to return her Redetermination form and failed to participate in the telephone interview. Thus, the department properly took action to close her case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

1. The department properly denied the claimant's July 6, 2009 Food Assistance Program (FAP), Medical Assistance (MA) and Child Development and Care (CDC) application to add her child and grandchild back into her program group as no verification was provided that the children were now living back with their mother.
2. The department properly terminated the claimant's FAP, CDC and MA for failure to return the Redetermination form 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 7, 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]