

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.: 2010-7110
Issue No.: 2012, 3004
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 18, 2010
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on March 18, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS properly denied Food Assistance Program (FAP) benefits to Claimant?
2. Whether DHS properly denied Medical Assistance (MA or Medicaid) benefits to Claimant?

FINDINGS OF FACT

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

1. On July 24, 2009, Claimant applied for FAP and MA benefits.
2. On September 17, 2009, DHS sent a Verification Checklist to Claimant, asking that she submit the necessary documentation by September 28, 2009.
3. On September 26, 2009, Claimant's brother died.
4. On October 15, 2009, Claimant submitted the necessary verifications.
5. On October 22, 2009, DHS denied Claimant's Application for FAP and MA benefits based on failure to verify identity (FAP only) and citizenship (FAP and MA).
6. Claimant requested a hearing by written Notice to DHS on October 27, 2009.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP), formerly known as the Food Stamp program, was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA or Medicaid) program was established by Title XIX of the Social Security Act and is implemented by CFR Title 42. DHS administers MA pursuant to MCL 400.1 *et seq.*, and MCL 400.105. DHS policies are found in the Bridges Administrative Manual (BAM) and the Bridges Eligibility Manual (BEM).

At the hearing, DHS abandoned the reasons stated in the Notice of Case Action of October 22, 2009, denying benefits, i.e., verification of citizenship and identity. DHS testified

that Claimant's Application was incomplete as of October 22, 2009, and, as a result, it was denied. I do not find DHS' change of position to be credible.

Under BAM 105, customers must cooperate with the local DHS office in determining initial and ongoing eligibility. This includes completing necessary forms. Customers must take actions within their ability to obtain verification. The local DHS office must assist customers who ask for help in completing forms or gathering verification. Particular sensitivity must be shown to customers who are illiterate, disabled, or not fluent in English. DHS must allow the client ten calendar days (or other time limit specified in policy) to provide the requested verification. BAM 105, pp. 5, 8 and 10; BAM 115, p. 4.

If the client cannot provide verification despite a reasonable effort, DHS must extend the time limit at least once. DHS is to send a negative action notice when (1) the client indicates a refusal to provide a verification, or (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. Only adequate notice is required for denial of an application. If there is a discrepancy between the information from a third-party source and the information from the client, DHS must give the client a reasonable opportunity to resolve the discrepancy before determining eligibility. BAM 130, pp. 5-6.

DHS is required to send a timely notice of a negative action, such as a denial, at least eleven days before the intended negative action is scheduled to take effect. The negative action is held in abeyance to provide the customer a chance to react to the proposed action. BAM 220, p. 4.

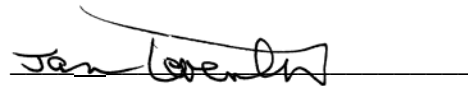
The Administrative Law Judge, based on BAM 105 and the findings of fact above, concludes that Claimant cooperated with DHS in providing verification. Although Claimant did not fax the necessary documents until October 15, 2009, she did suffer an event in her personal

life that constitutes good cause for failing to meet the DHS deadline. After that, even though her Application was not yet denied, she was not given ten days in which to provide the additional information that was needed. Based on the inconsistency of the DHS position, I also conclude that no such additional information was actually required.

Claimant's October 15, 2009, fax cover sheet states she tried to contact DHS several times by phone and left voicemail messages. I find that this document supports the conclusion that Claimant did not fail to cooperate in this case and tried to reach DHS by phone. The inability to reach the [REDACTED] is consistent with [REDACTED] testimony that the office was behind in its work, they had limited staff, the computer system changeover was slowing down progress, and there were hundreds of pending applications. Under these circumstances I can appreciate that Claimant's calls were not returned.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that DHS' denial of FAP and MA benefits to Claimant is REVERSED. The Department is Ordered to initiate a redetermination of Claimant's eligibility for FAM and MA benefits, effective July 24, 2009, in accordance with applicable law and policy.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 30, 2010

Date Mailed: April 2, 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.

JL/pf

cc:

