

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: 2010729
Issue No: 3008;1005;2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 16, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on December 16, 2009.

ISSUE

Was the claimant's FIP, MA, and CDC application properly denied for a 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:

- (1) Claimant applied for FIP, MA, and CDC in Wayne County.
- (2) Claimant verified her identity at application.
- (3) On August 12, 2009, claimant was sent a DHS-3503, Verification Checklist, due date of August 22, 2009.

- (4) This request only requested Social Security cards for the household, a DHS-4025, Child Care Provider Verification, and claimant's paycheck stubs.
- (5) Claimant returned all of these verifications.
- (6) Claimant's FIP application was denied because claimant did not verify identity for herself or her children or citizenship for herself and her children.
- (7) Claimant's FIP application and CDC application were also supposedly denied for a failure to verify identity, a failure to verify citizenship, and a failure to attend JET.
- (8) No evidence was submitted that claimant was ever assigned to JET.
- (9) Furthermore, claimant testified that she was unable to attend JET because the Department had denied her CDC application for a failure to prove identity and her children required childcare.
- (10) DHS submitted no evidence of a negative action notice with regard to the CDC program.
- (11) MA was subsequently approved.
- (12) On September 16, 2009, claimant requested a hearing alleging that the verifications used to justify the denial had never been requested.

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 Bridges Reference Manual (BRM).

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

A DHS-1171, Assistance Application must be completed when eligibility is determined. BAM 210. An application is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130.

For FIP and CDC, the identity of head of household grantee must be verified. For FIP only, the identity of U.S. citizens must be verified for individuals age 16 and above. BEM 221. For CDC, verification is not required from a person claiming U.S. citizenship **unless** the client's statements are questionable. BEM 225. For FIP, U.S. citizenship must be verified, which can usually be done with a passport or birth certificate. BEM 225.

With regard to the FIP denial, the Department, in its negative action notice, stated that claimant had been denied FIP because claimant had not verified identity for two of her children, and citizenship for all of her children. FIP was also denied for failing to attend JET; however, this is a separate issue and will be addressed below.

BEM 221 states that identity must be verified in FIP cases for individuals age 16 and above. The two children for whom the Department had no identity verifications are both above the age of 16, and thus required verification. Claimant admitted that she did not turn in proof of identity for these two children. Under normal circumstances, the Department would be correct for denying an FIP case in this situation.

However, on August 12, 2009, claimant was sent a DHS-3503, Verification Checklist. This form requested three verifications only: copies of Social Security cards for the household; a DHS-4025, Child Care Provider Verification, and; paycheck stubs for the months of July and August.

While verification of identity may well have been needed to the Department, the evidence at hand shows that the Department never requested this verification. The Administrative Law Judge holds that the Department cannot hold a claimant responsible for failing to provide verifications when those verifications were never requested in the first place. If the Department needs to verify identity of household members, the Department should request those verifications. Therefore, the argument that the Department's denial of claimant's FIP was proper for failure to provide identity verifications is without merit.

The Department next argued that claimant's FIP application was denied because claimant failed to verify the citizenship of her children. Once again, the undersigned agrees that citizenship must be verified for FIP applications. Once again, the undersigned notes that the

Department did not ask for this verification, and for reasoning identical to the reasoning above, decides that the Department's argument that claimant's FIP application denial for failure to provide citizenship verifications is also without merit.

With regard to the CDC denial in the present case, the undersigned notes that claimant has received no denial notice with regard to the CDC. This is, in itself, error (BAM 220), but for the purposes of completeness, (as the Department testified that CDC was denied for the same reasons as the FIP application) the undersigned will examine whether this denial was proper.

The household grantee is the only group member required to provide verification of identity in a CDC application. Claimant did this, and the Department confirms. Therefore, any denial of CDC because the children did not provide identity verifications was improper. Therefore, the Department's argument that CDC was denied because claimant did not verify identity for her children is without merit.

As far as citizenship, the Department may only request proof of citizenship if the claimant's statement of citizenship was questionable. The Department testified at hearing that they were of the belief that claimant was an American citizen, and did not claim that she was not. Therefore, proof of citizenship was not required, and the Department's decision to deny claimant's CDC application for failure to provide verification of citizenship was improper.

This brings us to the final issue: whether the claimant was properly denied FIP and CDC because she failed to attend JET orientation.

The undersigned notes that no part of BEM 233A, the policy which covers noncompliance with JET, allows for the sanctioning or denial of a CDC application for noncompliance. Therefore, the Department's argument, made in the final minutes of the hearing, that claimant should have been denied CDC because she failed to attend JET is without merit.

With regard to the claimant's FIP application, BEM 233A states that a FIP application may be denied for JET noncompliance. However, the Department has presented no evidence that claimant was assigned to JET in the first place. Therefore, if claimant was never assigned to JET, claimant could not have been noncompliant. Thus, this reason for denial must also fail.

That being said, the undersigned believes that claimant was assigned to JET; claimant herself admitted that she was. This does not change the analysis. Claimant testified that she could not go to JET because claimant had not been approved for CDC, and she needed the CDC in order to provide care for her children while attending JET. BEM 233A lists "no child care" as a valid reason for non-participation.

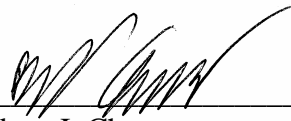
Claimant had applied for CDC, but that CDC had been either denied, or the application had not been processed. If the Department had wanted claimant to attend JET, then the Department should have processed the CDC. BEM 703 states that JET attendance is an activity for which CDC can be granted. Logic dictates that the Department cannot assign claimant to activities which may require a client to get CDC, but not grant CDC until after claimant has attended said activity. The undersigned will not acknowledge a Department issued catch-22 which acknowledges that claimant needs CDC in order to attend JET, but will not grant said CDC until after claimant has attended JET. Therefore, as claimant requested child care, the undersigned agrees that even if she was assigned to JET, claimant had good cause for failing to attend.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's assistance application was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to process claimant's FIP and CDC application retroactive to the filing date of August 11, 2009. As claimant has already provided all necessary verifications, the Department is FURTHER ORDERED to supplement claimant with any missed benefits, retroactive to the date of application, in accordance with policy found in the Bridges Administrative and Eligibility Manuals, should eligibility be established.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/21/10

Date Mailed: 01/22/10

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.

RJC/dj

cc:

