

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 20109116  
Issue No. 2006; 3008  
Case No. [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: June 2, 2010  
Jackson County DHS

**ADMINISTRATIVE LAW JUDGE:** Carmen Fahie

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on Wednesday, June 2, 2010. The claimant was not present, but was represented by his two brothers, [REDACTED] who have Power of Attorney.

**ISSUE**

Did the department properly deny the claimant's July 2009 review for his Food Assistance Program (FAP) and Medical Assistance (MA) case?

**FINDINGS OF FACT**

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

1. The claimant has a recipient of MA and FAP with a review required July 2009.
2. On June 18, 2009, the department caseworker sent the claimant a redetermination packet with a due date and appointment for July 7, 2009 at 1:30 p.m. (Department Exhibit 2-5)
3. On July 7, 2009, the claimant was sent a notice of missed interview where he was required to contact the department caseworker by July 31, 2009. (Department Exhibit 6)

4. On August 13, 2009, the department caseworker sent the claimant a notice that his FAP and MA case would close because the claimant failed to notify the department of the information necessary to determine eligibility for FAP and MA. (Department Exhibit 8-11)
5. On August 31, 2009, the department received a hearing request from the claimant, contesting the department's negative action.
6. During the hearing, the claimant's brothers who had Power of Attorney testified that the claimant had a double lung transplant in [REDACTED] where the claimant was unable to take care of himself and they were awarded Power of Attorney on [REDACTED].
7. During the hearing, the claimant's brothers who had Power of Attorney stated that they called the claimant's caseworker in late [REDACTED] to inform her of the claimant's hospitalization. The claimant was hospitalized from [REDACTED].
8. During the hearing, the claimant's brother who had Power of Attorney testified that he drove down to [REDACTED] to meet with the claimant's caseworker where she would not see him and told him he needed to make an appointment.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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 Manual (PRM).

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 department's program eligibility manuals provide the following relevant policy statements and instructions for caseworkers:

## **DEPARTMENT POLICY**

### **All Programs**

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.

## **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.

#### **Client Cooperation**

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the client when they need your help to obtain it. Such help includes the following:

- . Scheduling medical exam appointments
- . Paying for medical evidence and medical transportation
- . See PAM 815 and 825 for details. PEM, Item 260, p. 4.

#### **All Programs**

Clients must completely and truthfully answer all questions on forms and in interviews. 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.

### **LOCAL OFFICE RESPONSIBILITIES**

#### **All Programs**

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

In the instant case, the claimant was a recipient of FAP and MA benefits with a medical review required July 2009. Subsequently, the claimant had a medical emergency where he had to have a double lung transplant, which his brothers testified required hospitalization from [REDACTED]. The claimant's family was dealing with an emergency and were unable to submit the required verification within the department's timeline even though they had contacted the caseworker in late [REDACTED] and had driven from [REDACTED] to meet with the caseworker who was unable to meet with him on that day and told me that he needed to make an appointment. The department was aware that the claimant had a medical emergency that had incapacitated him to the point that he required someone to have Power of Attorney over his care. The claimant's family was unfamiliar with policies and procedures of the department and tried to do the best that they could while taking care of their family member. The family members did call and they did come to the office to try and provide the information that was required.

This Administrative Law Judge cannot uphold the department's action in denying the claimant's FAP and MA July 2009 review. Based on the testimony on the record, the claimant had a double lung transplant that required hospitalization from [REDACTED] to [REDACTED]. The claimant's brothers who had Power of Attorney testified credibly that they were overwhelmed with their family emergency and did try to provide the required verification to the department. In this case, the claimant had a good cause reason for not adhering to department policy in providing verification and not showing up for his interview. Therefore, the department has not established that it was acting in compliance with department policy by determining that the claimant failed to provide the required verification for FAP and MA continued eligibility.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, the department did not appropriately cancel the claimant's FAP and MA benefits because the claimant was incapacitated and could not provide the required verification.

Accordingly, the department's decision is **REVERSED** and the department is ordered to redetermine the claimant's eligibility for FAP and MA benefits retroactive to July 2009. If the claimant, at this time, is able with assistance from his brothers who have Power of Attorney to provide the required verification, If not, the claimant is to be given additional time until the verification provided can be submitted and eligibility can be determined.

/s/ \_\_\_\_\_  
Carmen G. Fahie  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: July 13, 2010

Date Mailed: July 13, 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.

CGF/VC

cc:

