

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: 20116659
Issue No: 3008; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: January 11, 2011
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 conference hearing was held on 1/11/11.

ISSUE

Did the DHS properly close claimant's Food Assistance Program (FAP) at review and claimant's Child Development and Care Program (CDC) applications due to claimant's failure to comply with the department's verification request?

FINDINGS OF FACT

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

1. At all relevant times prior to the negative action herein, claimant was a FAP recipient with the Michigan DHS.
2. Claimant receives Healthy Kids and Emergency Medical due to her alien status.
3. On 10/15/10, the DHS reviewed claimant's FAP and processed a new CDC application.
4. On 10/15/10, the DHS issued a verification checklist to claimant, due by 10/25/10. Exhibit 1.

5. The department contends claimant failed to return the requested verifications. Claimant contends she returned them but had no evidence of the same.
6. On 10/26/10, the DHS issued notice to close claimant's FAP and denied claimant's CDC on the grounds that claimant failed to comply with the department's verification requests.
7. Claimant subsequently reapplied on 11/5/10. Claimant was denied due to alien status.

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).

General verification policy and procedure applicable to the case herein states in part:

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. BAM, Item 105, p. 1.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. BAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. BAM, Item 105, p. 5.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. BAM, Item 105, p. 7.

Verifications

All Programs

Clients must take actions with in their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, 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-07 33-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 9.

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 Check list, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

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. BAM, Item 130, p. 4.

FAP Only

Do **not** deny eligibility due to failure by a person **outside** the group to cooperate with a verification request. In applying this policy, a person is considered a group member if residing with the group and is disqualified: See “**Disqualified Persons**” in BEM Item 212. BAM, Item 105, p. 5. 7 CFR 273.1.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- required by policy. BEM items specify which factors and under what circumstances verification is required.
- required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

In this case, the department presented substantial and credible evidence of having followed its policy and procedure with regards to issuing necessary verification requests with regards to claimant's FAP review and CDC application. The department presented evidence by way of Exhibit 1 which clearly laid out the necessary proofs. The verifications were due by 10/25/10.

Claimant contends she returned them. However, claimant had no copies and no date stamped documents to verify having delivered the same.

The purview of an Administrative Law Judge is to make a decision based on the evidence on the record. The evidence on the record supports that the department followed its policy in issuing the request for the verifications. Claimant had no evidence to submit which would show that she delivered the verifications. Thus, this ALJ must find in favor of the department.

It is noted that claimant subsequently reapplied and presumably delivered the necessary verifications. However, claimant was evidently denied due to alien status. Claimant is still within her jurisdictional window to request a hearing on that denial. That subsequent denial is not reviewed herein.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's October, 2010 FAP review and 10/15/10 CDC application denials were correct and are hereby UPHELD.

Janice /s/ _____
Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 18, 2011

Date Mailed: January 19, 2011

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.

JS/vc

cc:

