

attached hereto as Exhibit 2 and incorporated by reference.

4. The petitioner did not call or appear on December 6. On December 11, a letter identical to the one sent November 19, was sent to the petitioner rescheduling the appointment for December 20. Because the worker discovered he would not be in the office that day, on December 12 he sent a form letter identical to the one mailed November 27 rescheduling the appointment for December 19.

5. The petitioner did not keep that appointment or call to reschedule it. On December 24, 1990, 35 days after the initial application the worker sent a notice to the petitioner denying her ANFC, Food Stamps, and Fuel Assistance for failure to appear at the required interview, and denying Medicaid and to provide information necessary to determining her eligibility. The worker stated that he had questions about the household's composition, income and resources which he could not resolve from the applications. He needed to talk to the petitioner but she had no telephone and had not responded to any of his requests to come in to the office. He sent the closure notice because he felt he needed to take some action with regard to the application in thirty days.

6. The petitioner admitted to receiving the notices and to her failure to keep the appointments or to call in. She said she thought for a while she would be working again and wouldn't have to pursue benefits. On another occasion

she said she was having truck problems and later had baby-sitting problems. She also said she had come in to the office several times to try to get different appointments but "could not cut through the red tape." She promptly appealed the notice telling her she was cut off and stated that it turned out that she did need the benefits and was struggling to get by.

ORDER

The Department's decisions are affirmed.

REASONS

Under both the ANFC and Food Stamp programs, personal interviews are mandatory and refusal to attend the interview must result in a denial of the application:

For ANFC:

Interviews

A personal interview is required for all ANFC applications. This interview should be conducted privately with the applicant, who may have a representative to assist him if he wishes. Such interviews may be conducted in the applicant's home or another mutually convenient location when individual circumstances of health or unusual transportation problems make an office interview difficult.

W.A.M. § 2211.2

Methods of Investigation

. . . refusal of information or action necessary to establish eligibility will result in denial or closure of aid or benefits.

W.A.M. § 2211

For Food Stamps:

Application Processing

e. Interviews

1. All applicant households, including those submitting applications by mail, shall have face-to-face interviews in a Food Stamp Office or other certification site with a qualified eligibility worker prior to initial certification and all recertification. The applicant may bring any person he or she chooses to the interview. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The interviewer shall not simply review the information that appears on the application, but shall explore and resolve with the household unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including the appropriate application processing standard and the households' responsibility to report changes. The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.

F.S.M. § 273.2(e)

d. Household Cooperation

- I. To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has

merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied. The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes and applications for recertification. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates with the State agency. The State agency shall not determine the household to be ineligible when a person outside the household fails to cooperate with a request for verification. The State agency shall not consider individuals identified as nonhousehold members under 273.1(b)(2) as individuals outside the household.

F.S.M. § 273.2(d)

The Fuel Assistance and Medicaid programs have no general mandatory interview requirements per se, although the Medicaid program requires an interview when there are questions about statements made on the application.

Interview

An interview is a face-to-face meeting between the applicant, or his authorized representative (see Section M104), and a department employee to review the applicant's statement of need and resolve any problems or questions about the applicant's situation in relation to the Medicaid eligibility tests.

An interview must be held when:

The Medicaid application includes a patient living in a long-term care facility, such as a nursing home or mental health facility; or

The application and statement of need do not give enough clear and consistent information about the applicant's situation to make a decision on his application.

An interview may be desirable, but not necessary, to work out complex eligibility test problems, or to help an applicant who has trouble understanding eligibility rules or in giving written information.

Interviews are private. One representative chosen by the applicant may be present to help him explain his situation. Interviews are held at the District Office or at the long-term care facility where the applicant is living. An interview at home, or some other location convenient for both, may be arranged if unusual health or transportation problems make an office visit impossible for the applicant or his representative.

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The Board has held that refusal to cooperate can be presumed in verification requests if the petitioner is notified specifically to provide information necessary for eligibility by a certain date and advised of the consequences (denial) of failure to take the action. See Fair Hearing 6898. Similarly, it must be concluded that it is not inappropriate for the Department to presume that the petitioner is refusing to co-operate with attending a mandatory interview if deadlines and the consequences of failure to attend the interviews are clearly set out.

In this case, the Department did notify the petitioner of the necessity of an interview for ANFC and Food Stamp eligibility and warned her variously that her application might ("may") or would ("will") be denied for her failure to attend interviews on three separate occasions. The petitioner was notified that her failure to attend would cause the Department to "assume" that she was no longer interested. The Department's belief that the petitioner had received those notices coupled with her failure to appear at the appointed time or to call justified the Department's

conclusion that the petitioner intended not to co-operate in establishing her eligibility or had abandoned her claim.

The regulations support a denial of benefits when the applicant is silent in the face of such clear and repeated requests.

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