

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: 2008-30870
Issue No: 3012, 5013, 2012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 11, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 February 11, 2009. The Claimant and her mother personally appeared and testified.

ISSUE

Did the Department improperly deny Claimant's Food Assistance Program (FAP), State Emergency Relief (SER) and Medical Assistance (MA) benefits by delaying a determination of eligibility?

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 FAP, SER, and MA benefits in November or December 2007.

(2) The Department did not make determination regarding eligibility for any of the programs.

(3) Claimant made repeated calls to the Department worker.

(4) Eventually, in February 2008, Claimant was assigned a Department worker who began communicating with her. She provided the information the Department worker requested but no determination of eligibility was made.

(5) Eventually Claimant became frustrated by the delay and filed a hearing request.

(6) The Department received the hearing request on February 25, 2008.

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 (formerly known as the Family Independence Agency) 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 State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10 et seq., and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (SER).

The Medical Assistance (MA) program is established by 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 for FAP and MA are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

PROCESSING DELAYS

All Programs

If an application is **not** processed by the standard of promptness (SOP) date, document the reason(s) in the case record. Document further delays at 30-day intervals.

Exceeding the SOP **cannot** be the **sole** reason for a denial.

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Deadlines for Requesting a Hearing

All Programs

The AHR or, if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Note: Days as used in this item, mean calendar days unless otherwise specified.

Exception: For **FAP only**, an AHR or, if none, the client may request a hearing disputing the current level of benefits at any time within the benefit period.

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In this case, Claimant submitted applications for benefits for FAP, SER and MA benefits in late 2007 and the Department did not make a determination on any of the applications. Consequently, Claimant's hearing request was not untimely because she did not receive written notice of an action or determination. None was made. Therefore, the Department improperly denied Claimant FAP, SER and MA benefits by delaying a determination of eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly denied Claimant a determination on her FAP, SER and MA applications.

Accordingly, the Department is ORDERED to make a determination regarding Claimant's applications for FAP, SER and MA and issue Claimant benefits retroactive to the date of the applications if she is eligible for benefits under these programs.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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.

TLW

cc: [REDACTED]