

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: 2008-31516
Issue No: 3012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 5, 2009
Kent 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 5, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department improperly deny Claimant's Food Assistance (FAP) benefits by delaying her in-person interview after she submitted a new application?

FINDINGS OF FACT

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

(1) Since October 2007, Claimant had been a FAP recipient as part of a group that included herself and her roommate. The case number was [REDACTED]

(2) On July 25, 2008, Claimant submitted an application for benefits for herself alone. Claimant told the Department worker that she and her roommate were no longer buying and preparing their food together and no longer eating together.

(3) The Department worker told Claimant that she needed to have an in-person interview with Claimant and her roommate. The meeting was scheduled for August 5, 2008.

(4) Claimant and her roommate were available to attend the meeting and planned to attend the meeting on August 5, 2008.

(5) On the day of the meeting, the Department worker called Claimant and cancelled the meeting.

(6) After several days, the Department worker had not called to reschedule the meeting. Consequently, Claimant called the Department worker in mid-August 2008 to reschedule the meeting. A meeting was scheduled for August 29, 2008.

(7) Claimant and her roommate attended the meeting on August 29, 2008.

(8) As a result of the meeting, Claimant was removed from the FAP group with her roommate.

(9) The Department determined Claimant eligible for FAP benefits and a new FAP case was opened for Claimant alone, effective September 16, 2008. (Exhibit pg. 2). Claimant's new FAP group case number is [REDACTED].

(10) Starting in September 2008, Claimant began receiving [REDACTED] in monthly FAP benefits under her new case. (Exhibit pg. 3).

(11) Claimant requested the hearing on the grounds that she should have begun receiving FAP benefits under her new case in August 2008 rather than September 2008 had the Department worker not unnecessarily delayed the interview without good cause.

(12) The Department received Claimant's hearing request on September 17, 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).

STANDARDS OF PROMPTNESS

All Programs

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information.

Exception #1: For **FAP**, the SOP begins when the **correct** local office receives it. See [PAM 110](#).

Exception #2: For **FAP**, when a person applies for SSI and FAP before being released from a medical institution, the SOP begins on the applicant's date of release.

See [PAM 105](#), for the minimum required information for filing.

Process applications and requests for member ads as quickly as possible, with priority to the earliest application date. See "[PROCESSING DELAYS](#)" in this item. Requests for member ads must be registered on ASSIST. See AUM 150.

(PEM 115, pg. 10-11).

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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.

When one program approval/denial will exceed the SOP, determine eligibility for any others (e.g., FAP) within the standard, if possible.

FAP Fault Determination

FAP Only

For a pended application, determine who is at fault for the delay every 30 days after the application date.

Note: This affects an approval of benefits for the months of delay, but **not** necessarily a denial. See “[Denials](#)” under “**ELIGIBILITY DECISIONS**” in this item.

FAP Group at Fault

If the 30-day SOP is **not** met **and** the group is at fault, the following applies:

- Enter Disposition code 801 on ASSIST on the 30th day to prevent an overdue registration on Worker Registration Reports.
- Send a DHS-1150, Application Eligibility Notice, to inform the group that the case is pended and will be denied on the 60th day unless the needed actions are taken.
- Prorate benefits from the date the group complies with all application requirements.

The group is at fault when you have taken all required actions but the group has not:

- Provided all verifications by the 30th day, despite 10 days or more to provide them; or

- Attended the scheduled interview. See “INTERVIEWS” in this item.

Local Office at Fault

If you have **not** taken all necessary actions **and** the application will pend beyond the 30th day, the following applies:

- Send a DHS-1150 to inform the group of the pending status and any action it must take to complete the process.

Note: The group has 10 days from the DHS-1150 mailing to provide verifications.

- Take prompt action to correct the cause of the delay.
- If eligible, the group's benefits begin with the application month.

The local office is at fault if you fail to:

- Request necessary verifications at least 10 days before the 30th day.
- Provide requested help to complete the application process or secure verifications.
- Schedule a timely interview, resulting in less client time than policy requires to take an action (See “INTERVIEWS” in this item).
- Complete all paperwork to authorize benefits.

(PEM 115, pg. 23-25)

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In this case, Claimant submitted an application for benefits on July 25, 2008 and she and her roommate were available to attend the in-person hearing that the Department worker scheduled. The Department worker, however, cancelled the meeting. The worker did not offer a reason for canceling the appointment. Therefore, it is found that the worker did not establish good cause for canceling the in-person interview. In addition, the worker did not attempt to reschedule the interview until Claimant called to remind her.

After the rescheduled interview on August 29, 2008, the Claimant was found eligible for benefits on September 16, 2008. Consequently, had the interview scheduled on August 5, 2008 not been cancelled, Claimant would have been found eligible and would have received benefits of [REDACTED] for August 2008. Because the Department delayed the interview without good cause and cancelled the interview and failed to promptly reschedule another interview, it is found that the Department improperly denied Claimant's FAP benefits for August 2008.

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's FAP benefits for August 2008 by delaying her in-person interview after she submitted a new application.

Accordingly, the Department's action is REVERSED. The Department is ordered to calculate the benefits Claimant would have received had her case been timely opened in August 2008 and issue any retroactive FAP benefits that she is eligible to receive.

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

Date Signed: February 9, 2009

Date Mailed: February 12, 2009

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 of on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

2008-31516/TLW

TLW

cc:

