

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: 2009-11657

Issue No: 5008; 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 4, 2009

Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 hearing was held on June 4, 2009. Claimant personally appeared and testified.

ISSUES

1. Did the department correctly terminate claimant's Food Assistance Program (FAP) benefits at the end of November, 2008?
2. Did the department correctly deny claimant's State Emergency Relief (SER) application in December, 2008 and January, 2009?

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 was a FAP recipient when her case came due for a review.

2. Claimant did not keep her review appointment in November, 2008, but testified that she called to reschedule this appointment for December 4, 2008. Department is in possession of an Assistance Application, DHS-1171, claimant signed in presence of her caseworker on December 4, 2008.

3. Claimant's FAP benefits remained closed until she re-applied for such benefits in January, 2009. Department determined that the claimant had excess income for FAP and denied this application.

4. Office of Child Support (OCS) mailed the claimant a Noncooperation Notice for a child, [REDACTED] on December 29, 2006. OCS then mailed the claimant a Cooperation Notice for a child [REDACTED] on January 12, 2007 (Department's Exhibits #1 and 2).

5. On December 4, 2008, claimant's caseworker e-mailed the Child Support Specialist asking for a clarification of the claimant's child support cooperation status. Child Support Specialist responded that there is another child on claimant's case besides [REDACTED], that child's name is [REDACTED], dob [REDACTED], and claimant has been in noncooperation for this child since December 28, 2006 (Department's Exhibit #3).

6. Claimant applied for SER on December 5, 2008 and was denied on December 10, 2008 for this program. SER denial notice states "At this time you are currently child support sanctioned and not eligible for SER services" (Department's Exhibit #4).

7. On December 11, 2009, OCS mailed the claimant a Cooperation Notice stating that she is now cooperating with child support action for child, [REDACTED] (Department's Exhibit #5).

8. On December 16, 2008, department mailed the claimant a Verification Checklist informing her that she is not cooperating with OCS for [REDACTED], but that [REDACTED] is in noncooperation for her child [REDACTED] (Department's Exhibit #6).

9. On January 7, 2009, department sent the claimant another SER Decision Notice again denying her SER request due to being child support sanctioned (Department's Exhibit #7).

10. On January 9, 2009, Child Support Specialist sent an e-mail to claimant's caseworker explaining that the only noncooperation notice claimant has had was for [REDACTED] child, and that the child support case is open (Department's Exhibit #8).

11. On January 15, 2009, department sent another e-mail to OCS asking for clarification of the child support action. Child Support Specialist advised that claimant's daughter [REDACTED] has pursued child support on April 4, 2007, and currently has a child support order (Department's Exhibit #9).

12. Claimant requested a hearing on January 9, 2009, Department took no further action on claimant's SER request.

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 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 (DHS or department) policies are found in the State Emergency Relief Manual (SER).

The first issue discussed in the hearing was claimant's FAP case. Departmental manager representing the department at the hearing did locate a review letter for FAP case mailed to the claimant in November, 2008. Departmental policy requires that department mail review information to the clients in the month **prior** to the redetermination month, but **no later** than two workdays before the end of that prior month. Department did not mail the review information to the claimant in a time frame specified by the policy and the timely filing date had to therefore be adjusted. In order to receive uninterrupted benefits, (i.e., benefits available on their scheduled issuance date) the client must file either a DHS-1171 assistance application or filing form, or a DHS-2063B, Food Assistance Benefits Redetermination Filing Record, by the 15th of the redetermination month. However, if the department mails the redetermination materials late, the timely filing date is 17 days **after** mailing of the materials. PAM 210. In claimant's case, this would be sometimes in the month of December, 2008. Furthermore, claimant testified that she called her caseworker to change her review appointment, and the appointment was changed for December 4, 2008. This claim is supported by the fact that department has an application signed by the claimant on December 4, 2008, in front of her caseworker on file. Department's representative cannot explain why claimant's FAP benefits still ended on November 30, 2008, and a FAP budget that perhaps resulted in excess income for the month of December, 2008 and which could explain why the FAP case was not re-opened cannot be located. Claimant has no

issue with the FAP budget computed in January, 2009 and states that all of the figures used by the department (i.e. her employment income and shelter expenses) are correct.

Second issue is department's denial of claimant's SER application in December, 2008 due to her alleged noncooperation with OCS. It is apparent from the review of OCS letters and e-mails that the claimant, her daughter who has just turned 18 years of age, and her daughter's child [REDACTED] born in [REDACTED] were the only member's of claimant's household. Child Support Specialist appears to have been confused in thinking that there is another child in the home named [REDACTED], and gave the wrong information to the department. Claimant's caseworker then failed to question OCS information, something that should have been done since the case record would clearly show there was no child named [REDACTED] on claimant's case. Department's denial of claimant's December, 2008 SER application on the basis that she was not cooperating with OCS was therefore incorrect. Furthermore, department was advised by OCS in January 15, 2009 e-mail that claimant's daughter, [REDACTED] has pursued child support for child [REDACTED] since April, 2007 and has a child support order on record, something which would not occur without cooperation with OCS. This e-mail should have prompted the department to reconsider the SER denials, as it would be clear from the e-mail that OCS gave erroneous information previously regarding claimant's alleged noncooperation with them.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's FAP benefits on November 30, 2008, and also incorrectly denied claimant's SER application in December, 2008 and January, 2009.

Accordingly, department's action is REVERSED. Department shall:

1. Obtain claimant's income information for the month of December, 2008.
2. Compute claimant's FAP eligibility for the month of December, 2008. If the claimant meets financial and nonfinancial eligibility requirements for December, 2008 and is entitled to FAP benefits for this month, issue the claimant a FAP supplement for December, 2008. It is noted that the department has already concluded that the claimant had excess income for FAP for January, 2009, and claimant does not dispute the budget figures used by the department for that month.
3. Reprocess claimant's SER application from December 5, 2008, based on her circumstances for that month and actual income she received for the month, and if found eligible for SER, issue any benefits she is entitled to.
4. Notify the claimant in writing of FAP and SER eligibility determination.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 9, 2009

Date Mailed: June 10, 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 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.

IR [REDACTED]

cc:

[REDACTED]