

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: 2009-15953
Issue No: 1027; 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 21, 2009 (Continuance)
April 16, 2009 (Orig.)
Wayne 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 hearing was held on April 16, 2009 and rescheduled for a continuance on May 21, 2009. Claimant was represented at the administrative hearing by [REDACTED].

ISSUE

Did claimant fail to appear for the continued administrative hearing thereby triggering a dismissal of claimant's hearing 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) The undersigned Administrative Law Judge was assigned a telephone hearing in this matter on April 16, 2009.

(2) The department testified at that administrative hearing where claimant and [REDACTED] appeared, that the FAP and MA cases were closed at review on February 19, 2009 due to conflicting employment and asset verifications.

(3) [REDACTED] filed a subsequent appearance.

(4) Due to numerous asset and verification issues, an adjournment was granted to give the parties an opportunity to collect extensive asset verifications.

(5) The undersigned Administrative Law Judge had this hearing continued to May 21, 2009, at 2:30 p.m. Notice was issued and mailed to claimant and to claimant's attorney.

(6) At the time and place of the scheduled hearing on May 21, 2009, neither claimant nor claimant's attorney appeared for the administrative hearing. Wayne County #17 called SOAHR approximately one hour after the scheduled hearing and indicated that there were no parties who appeared for the administrative hearing.

(7) Claimant abandoned the hearing under Rule 400.906.

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 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 (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

R 400.906 is titled: "Denial or Dismissal of Request For Hearing." Under this section, this Rule states:

Rule 906(1). The department shall deny or dismiss the request for a hearing if:

... (2) abandonment occurs if claimant, without good cause therefore, fails to appear by himself or by his authorized representative at the scheduled hearing.

In this case, the undersigned Administrative Law Judge granted the adjournment request and had this hearing continued to May 21, 2009. Neither claimant nor claimant's representative appeared at the time and place for the continuance. There is no information or communication regarding any request which would constitute a reason and/or good cause for failing to appear. Thus, under R 400.906(2), this ALJ finds abandonment and dismisses claimant's hearing request.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides claimant and/or claimant's representative failed to appear for the continued hearing on May 21, 2009, and thus, under MAC R 400.906(2), abandonment has occurred and claimant's hearing request is thereby DISMISSED.

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

Date Signed: May 22, 2009

Date Mailed: May 26, 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 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 mailing date of the rehearing decision.

JS/cv

cc:

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