

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: 2009-16997
Issue No: 3019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 23, 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 April 23, 2009. Claimant personally appeared and testified. A family independence manager represented the Department.

ISSUE

Is Claimant entitled to a hearing when no negative action has been taken against her Food Assistance Program (FAP) case and no negative action is pending?

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 is a FAP benefits recipient. She receives \$206 in monthly FAP benefits.
- (2) Claimant requested a hearing because she received a case action notice regarding her FAP case and a Semi Annual Contact.

- (3) Claimant was required to submit a Semi Annual Contact, DHS1046 form, by February 10, 2009. Claimant timely submitted the form on January 26, 2009.
- (4) Claimant also requested a hearing because her son's dental bill of [REDACTED] for teeth cleaning service provided on March 27, 2008 had not been paid to his pediatric dentist. For six months, Claimant attempted to get the bill paid because her son was covered by Medical Assistance (MA).
- (5) A family independence manager called the dental office at issue -- [REDACTED] -- and learned that the dental provider wrote off the bill due to nonpayment after repeatedly submitting it for payment. The FIM also learned that Claimant's son received MA benefits, which cover teeth cleaning.
- (6) The Department, however, has not taken any negative action against Claimant's FAP case and no negative action is pending.
- (7) The Department received Claimant's hearing requests on February 17, 2009.

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 administrative rules state that an opportunity for an administrative hearing shall be granted to an applicant who requests a hearing because her claim for public assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in the suspension, reduction, discontinuance or termination of public assistance. MAC R 400.903(1). Department policy further states that a request for a hearing may be granted to any recipient who is aggrieved by a Department action resulting in restrictions under which benefit services are provided, any action beyond standards of promptness, and expunction or amendment of a child abuse/neglect central registry or local office record. PAM Item 600.

The testimony of both parties is that Claimant timely submitted her Semi Annual Contact form. Therefore, the Department has not taken any negative action against her FAP case nor is any negative action pending. Consequently, it is found that Claimant is not aggrieved by a Department action. Since Claimant is not aggrieved by any Department action, her hearing request must be dismissed.

The issue of whether the dentist who provided service to Claimant's son on March 27, 2008 should be paid is a service provider issue that must be addressed by the Department of Community Health (DCH). If Claimant is interested in pursuing this issue, she must request a hearing with DCH.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is not entitled to a hearing because she is not aggrieved by any Department action.

Accordingly, the Claimant's hearing request is DISMISSED.

/s/

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

Date Signed: 04/28/09

Date Mailed: 04/28/09

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.

TW/dj

cc:

[REDACTED]