

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: 2009-18994
Issue No: 3008, 2001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 29, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 conducted from Detroit, Michigan on July 29, 2009. The Claimant appeared and testified. Mr. D. Seay, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the claimant's Food Assistance (FAP) and Adult Medical Program (AMP) benefits?

FINDINGS OF FACT

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

1. Claimant was a recipient of FAP and AMP benefits.
2. On March 11, 2009 the Department issued a Verification Checklist indicating a due date of March 19, 2009 to provide the requested verifications and an interview date of March 19, 2009 at 1:00 pm. (Exhibit 1)

3. Claimant testified that he failed to attend the interview and to return the requested verifications because he did not receive the Verification Checklist.
4. On March 31, 2009 the Department closed the FAP and AMP benefits case.
5. Claimant requested a hearing on March 31, 2009 to contest the closure of the FAP and AMP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq*. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department periodically reevaluates cases to ensure that eligibility for program benefits continues. A re-determination is a periodic, thorough reevaluation of all eligibility factors to determine whether the group continues to be eligible for program benefits. PAM 210. Clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. PAM 105. Allow clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and

information. If the 10th day falls on a weekend or holiday, the verification would not be due until the next work day. PAM 210. A negative action notice is to be sent when the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM 130.

In the present case, claimant's ongoing FAP and AMP benefits case was up for re-determination. The department issued the Verification Checklist on March 11, 2009 with an appointment date and due date of March 19, 2009. (Exhibit 1) Claimant provided credible testimony that he did not receive the verification checklist. Claimant testified that the [REDACTED] street address on the checklist is correct, however, he has had problems receiving mail. For example claimant's mail has been delivered to the same street number on [REDACTED] Street.

Further, the department did not allow the required 10 days for claimant to respond to the Verification Checklist. Department testified that if the claimant had appeared for the interview on March 19, 2009, the department would have given claimant 10 days from the interview to provide the requested verifications. Department stated that therefore the due date to provide the requested verification was really March 29, 2009. However, nothing on the Verification Checklist prepared by the department indicated the due date would really be March 29, 2009. The Verification Checklist is dated march 11, 2009 and both the due date and the interview date are listed as March 19, 2009. Accordingly, the department's written request for verifications did not allow claimant the required 10 days to provide the verifications.

Based upon the foregoing facts and relevant law, it is found that the department's FAP and AMP determinations are REVERSED.

Claimant has since reapplied for FAP benefits which were opened as of May 2009. Claimant testified he filed the new application on April 6, 2009 and that the department failed to process FAP benefits prior to his meeting with a supervisor in May 2009. As such claimant feels

he missed a period of FAP benefits from April 6, 2009 until the FAP case was opened in May 2009. However, it is not necessary for this ALJ to make a separate determination on this issue as this time period will be covered by the reversal of the March 31, 2009 closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the claimant's FAP and AMP benefits.

Accordingly, the Department's FAP and AMP eligibility determinations are REVERSED. Therefore it is ORDERED that the claimant's FAP and AMP benefits be reinstated retroactive to the closure date of March 31, 2009.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/28/09

Date Mailed: 08/31/09

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.

CL/dj

cc:

