

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant,

Reg No: 2009-22644
Issue No: 3005
Case No: ██████████
Load No: ██████████
Hearing Date:
June 30, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 ██████████ on June 30, 2009.

ISSUE

Whether the Department used the proper application date for Claimant's Food Assistance Program (FAP) 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) On March 30, 2009, the Department received Claimant's FAP application by fax. (Exhibits 1-3)
- (2) On April 1, 2009, the Department received Claimant's FAP application by mail. (Exhibit 4)

(3) Claimant asked her daughter to mail her FAP application to the Department, but her daughter faxed and mailed it to the Department. (Hearing Request)

(4) On April 15, 2009, the Department interviewed Claimant and explained that March 30, 2009 would be considered her application date.

(5) On April 16, 2009, the Department opened Claimant's FAP case. Claimant's prorated benefits for March was [REDACTED] and her allotment was [REDACTED]/mo for April 2009 through February 2010. (Exhibit 5)

(6) On April 20, 2009, Claimant contacted the Department because she did not think her benefits should have started in March 2009.

(7) On April 23, 2009, the Department received the Claimant's hearing request. Claimant does not dispute the FAP allotment. Her request for hearing is based on the Department using March 30, 2009 as her application date which resulted in her receiving [REDACTED] in March and only having 5 months prior to her review. (Hearing 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. Departmental policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

An opportunity for a hearing shall be granted to an applicant who requests a hearing because their claim for assistance is denied or is not acted upon with reasonable

promptness, or to any recipient who is aggrieved by any Department action resulting in suspension, reduction, discontinuance, or termination of assistance. R 400.903

In the instant case, Claimant's application for FAP benefits was not denied and/or her FAP benefits were not reduced or terminated. Claimant also does not claim that her application was not acted upon with reasonable promptness, in fact, quite the opposite. Claimant's position is that her application was acted upon too quickly by the Department.

It is true that Claimant received [REDACTED] in March, but she would have also received [REDACTED] in March if her FAP case was opened on April 1st instead of March 30th. It is also true that with her case opening on March 30th she effectively only had 5 months before her review as opposed to 6 months if her case opened on April 1st. While she will have to supply information to the Department a month earlier, this fact alone will not change her benefit entitlement. Her benefit entitlement will only change if her circumstances change which she is required to report to the Department within 10 days of such change anyway. Lastly, with her case opening on March 30th, Claimant is only effectively scheduled to receive 11 months of benefits before her certification expires as opposed to 12 if her case would have opened on April 1st. While Claimant may feel like she is receiving "less" benefits, her benefit entitlement for March 2010, the 12th month if her case was opened on April 1st, would only change if her circumstances change and, again, she is required to report such a change to the Department within 10 days of its occurrence.

With the above said, it is certainly questionable whether there has been a "classic" negative action in this matter. However, even if there was, I find that the Department followed policy by opening Claimant's FAP case on the date it received it by fax. The Department certainly did not know that Claimant preferred to have an April 1st

application date. There were no notations on the application, Claimant did not raise the issue at the interview and did not withdraw the application prior to the FAP case being opened. Additionally, while Claimant instructed her daughter to mail the application, it very well could have arrived on March 31st instead of April 1st and the circumstances would be the same.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in opening Claimant's FAP case on the date it received it by fax.

Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

/S/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 1, 2009

Date Mailed: July 1, 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.

2009-22644/smb

SMB/db

cc:

