

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.: 2009-23121  
Issue No.: 3008/6015  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
July 15, 2009  
Macomb County DHS(12)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on July 15, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly move to close the Claimant's Food Assistance (FAP), and deny her Child Development and Care (CDC)?

FINDINGS OF FACT

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

1. The Claimant was a FAP recipient.
2. On December 10, 2008, the Claimant applied for CDC. (Department exhibit 4).
3. On January 13, 2009 the department sent the claimant a verification checklist requesting various pieces of documentation due January 23, 2009, but setting an interview date of

- January 16, 2009, three days after the verification checklist was sent. (Department exhibit 7).
4. On January 20, 2009, the department sent the claimant a “notice of missed interview” telling the claimant to reschedule her interview before January 23, 2009. (Department exhibit 6).
  5. On January 24, 2009, the department sent the claimant a notice that her CDC application had been denied because the claimant had not returned verification. (Department exhibit 4).
  6. On January 26, 2009, the department sent the claimant a notice denying her FAP because she had missed the “required interview. (Department exhibit 5).
  7. On February 3, 2009, the Claimant filed a request for a hearing.

#### 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 Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human

Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the Department sent a verification checklist scheduling an interview three (3) days after the notice was sent.

### **FAP Only**

An in-person interview is required at redetermination unless an in-person interview can be waived. See [PAM 115, Waiver of In-Person Interview](#). The individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. Waive the in-person interview if the eligible group consists entirely of senior/disabled/veteran members who are unable to appoint an authorized representative. If the client misses the interview, send a DHS-254, Notice of Missed Interview. See [PAM 115, Scheduling Interviews](#). (PAM 210, p. 8)

After the claimant missed the interview the department continued this practice and sent the claimant a notice that she had to reschedule the interview three (3) days after this notice was sent.

### **Timeliness of Verifications**

#### **CDC, FIP, FAP**

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. (PAM 130, p. 4)

Here the department did not even allow enough time for the notices and verification requests to be delivered to the claimant. In fact, at the hearing and in the claimant's request for a hearing the claimant states that she received the verification requests after the time set for the interview.

I find that the department erred in not allowing enough time between the request for verification and the time set for the interview.

The department further argues that the claimant was in violation for not cooperating with the office of child support. However the office of child support was not in attendance at the hearing and the claimant stated that she attempted to contact the office of child support without result. This ALJ finds the claim of non cooperation with the office of child support not dispositive.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department retroactively reopen the claimant's FAP and replace any lost benefits. Furthermore, it is ORDERED that the department reregister the claimant's CDC application and replace any lost benefits if applicable.

/s/  
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Michael J. Bennane  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 08/18/09

Date Mailed: 08/18/09

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 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.

MJB/jlg

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