

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.: 2009-25588
Issue No.: 2007/3019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 15, 2009
Wayne County DHS (57)

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 appeared and testified via a three way hearing from her home.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA) and Food Assistance (FAP)?

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 May 18, 2009, the department learned of a new hire and sent the claimant a form to be completed.
2. On May 20, 2009, the claimant returned the new hire form but it was incomplete.

3. The department placed the claimant's FAP and MA into negative action and sent her n employment verification form.
4. The claimant's employer returned the employment verification form but it was also incomplete.
5. On June 1, 2009, the claimant requested a hearing.
6. On June 30, 2009, the department closed the claimant's FAP and MA.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) 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).

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).

In the instant case, the Department presented documentation of notice of closure but no other documentation. The Department was represented by a manager and the case worker was not available for the hearing.

CASE CLOSURE

All Programs (Except SER)

When a recipient is no longer eligible or requests case closure, do **all** of the following:

Document ineligibility, or the client's request that the case be closed.... (PAM 220, 916)

The Claimant took part in the hearing via a three way hearing from her home. The department suggested that evidence could be sent to this ALJ by facsimile but there was no way for the claimant to be able to review any evidence not included in the hearing packet.

The Claimant testified that she wasn't notified of the proposed closure until three weeks after her new employer sent in the incomplete employment information.

The department states in the hearing summary that the closure was "deleted pending this hearing." The department also states that the claimant's FAP and MA were subsequently closed "for other reasons."

The claimant requested a hearing on June 1, 2009. The department closed the claimant's FAP and MA on June 30, 2009.

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, do one of the following that applies to the case.

Delete the pending negative action.

Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action. (PEM 600, p.17).

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES and ORDERS the Department to return to the date of closure and reopen Claimant's FAP and MA and replace any lost benefits.

/s/

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

Date Signed: 08/06/09

Date Mailed: 08/06/09

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

cc:

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