

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.: 2009-28795
Issue No.: 3008
Case No.:
Load No.:
Hearing Date:
August 10, 2009
Wayne County DHS (18)

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, an in person hearing was held on August 10, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly deny the claimant's Food Assistance (FAP) application?

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 19 2009, the claimant applied for FAP.
2. On May 21, 2009, the department sent the claimant a verification checklist requesting various pieces of information and setting an interview date for May 26, 2009.
(Department exhibit 2).

3. On June 22, 2009, the department sent the claimant an eligibility notice denying her FAP application. (Department exhibit 3).
4. On June 30, 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).

In the instant case, the department denied the claimant's FAP application when she failed to attend an interview scheduled for five days after the notice was sent. In addition, the interview was scheduled on as Tuesday following the Memorial Day weekend. This effectively provided either one or two days for the delivery and response to the notice.

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.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission is the receipt date.

Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day. (PAM 130, p.4).

Here, the department might argue that the verification documentation was not due until June 1, 2009, which is ten (10) days after the notice was sent. However, the department listed the failure to attend the interview as the reason for the denial.

This ALJ finds that the notice of the interview was inadequate. I find that the department incorrectly denied the claimant's FAP application.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to retroactively reopen the claimant's FAP application.



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

Date Signed: 09/25/09
Date Mailed: 09/25/09

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:

