

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: 2009-32834
Issue No: 3025; 4020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 20, 2009
Emmet County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on October 20, 2009. Claimant appeared and testified.

ISSUES

- (1) Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) case due to his incarceration?
- (2) Did the Department of Human Services properly close Claimant's State Disability Assistance (SDA) case due to his incarceration?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Food Assistance Program (FAP) and State Disability Assistance (SDA) benefits.

- (2) On May 12, 2009, Claimant was incarcerated in the Emmet County Correctional Facility. Claimant's expected release date was October 8, 2009.
- (3) On July 9, 2009, the Department of Human Services local office became aware of Claimant's incarceration.
- (4) On July 21, 2009, Claimant's Food Assistance Program (FAP) and State Disability Assistance (SDA) were pended to close.
- (5) On August 3, 2009, Claimant submitted a request for hearing.
- (6) On October 8, 2009, Claimant was released from the Emmet County Correctional Facility.

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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In this case, Claimant does not dispute that he was incarcerated from May 12, 2009 to October 8, 2009. Department policy provides the following guidance for caseworkers. The Department's policies are available on the internet through the Department's website.

BEM 265 INSTITUTIONAL STATUS

DEPARTMENT POLICY

All Programs

Residents of institutions can qualify for certain program benefits in limited circumstances. This item explains how institutional status affects eligibility.

DEFINITIONS

All Programs

- **Institution** means an establishment furnishing food, shelter and some treatment or services to more than three people unrelated to the proprietor.
- **Institution for Mental Diseases** means a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases.
- **Government-operated facility** means a facility over which a governmental unit has responsibility or exercises administrative control. It includes a facility owned or leased by a governmental agency and administered through the agency's salaried staff.
- **Public nonmedical institution** means a government-operated facility that does not provide medical care (e.g. jail or prison). A community residence facility for fewer than 17 people or a school is not considered a public nonmedical institution.
- **Psychiatric facility** means a private or government-operated institution engaged primarily in diagnosing or caring for persons with mental disease. It does not include the psychiatric ward of a hospital or a facility for the mentally retarded.
- **Entire calendar month** means a period that begins any time on the first day of a calendar month and ends any time on the last day of that month.

OVERVIEW

SDA

A person in an institution other than those listed in the “**Exceptions**” below for more than 30 days is not eligible. Presume that a person placed in an institution will remain there more than 30 days unless a shorter stay is verified.

Exception: A person in one of the following institutions may be eligible, regardless of the length of stay:

- Hospital.
- Home for the Aged.
- County Infirmary.
- Adult Foster Care Home.
- Substance Abuse Treatment Center.
- Long Term Care (LTC) facility.
- Department of Corrections contract facility for probationers.
- Technical Institute and Rehabilitation Center operated by Michigan Rehabilitation Services.

FAP Only

A person in a facility which provides its residents a majority of their meals can qualify for FAP **if** the facility:

- Is authorized by the Food and Nutrition Service (FNS) to accept Food Assistance; **or**
- Is an eligible group living facility as defined in BEM 615.

The resident must also meet the criteria in the “**ELIGIBLE PERSONS**” section in BEM 617.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed Claimant’s Food Assistance Program (FAP) and State Disability Assistance (SDA) cases due to his incarceration for more than 30 days.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/


Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 23, 2009

Date Mailed: October 26, 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.

GFH 

cc:

