

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. 2009-33502
Issue No. 3028
Case No. ██████████
Load No. ██████████
Hearing Date:
September 22, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on September 22, 2009. The claimant appeared and testified. Sue Hamilton, Supervisor MiCAP, appeared on behalf of the department.

ISSUE

Whether the department properly denied claimant's Food Assistance Program (FAP) application for disqualification based on three prior intentional program violations?

FINDINGS OF FACT

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

1. On September 9, 1994, claimant was found to have committed a third intentional program violation. (Department Exhibit, 1 pg. 3)
2. On July 1, 2009, claimant applied for FAP benefits under the MiCAP program. (Department Exhibit 1, pg. 10)

3. On August 4, 2009, the department denied the FAP application because of a lifetime disqualification, based upon claimant's third intentional program violation.
4. Claimant requested a hearing on August 12, 2009, contesting the FAP denial.

CONCLUSIONS OF LAW

The Food Assistance Program, 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'), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ('BAM'), the Bridges Eligibility Manual ('BEM'), and the Program Reference Manual ('PRM').

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers that allows DHS to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program. BEM 618. On April 1, 2009, the DHS-513, MiCAP Application was automatically sent to all SSI individuals that may qualify informing them of the program and giving them the opportunity to apply. BEM 618.

To qualify for FAP benefits, the applicant must meet certain financial and non-financial eligibility factors and must not be under a disqualification period. BAM 720 sets out the standard disqualification periods for recipients determined to have committed an intentional program violation (IPV): one year for the first IPV, two years for the second IPV and lifetime for the third IPV.

In the present case, on September 9, 1994 it was determined that claimant committed a third intentional program violation and a lifetime disqualification for FAP benefits began November 1, 1994. (Department Exhibit 1, pg. 3) Claimant testified she remembered the disqualification and prior intentional program violations, but thought the rules for FAP had changed because the Department mailed her the application.

Claimant was sent the MiCAP application when the program began as part of a mass mailing. As noted above, the MiCAP applications were sent to SSI recipients who may qualify for FAP benefits to informing them of the program and provide the opportunity to apply. However, the department policy regarding disqualifications for intentional program violations has not changed. A third intentional program violation still results in a lifetime disqualification period.

Based upon the foregoing facts and relevant law, it is found that the department's FAP determination was correct. The department established that it acted in accordance with departmental policy in determining claimant was not eligible for FAP benefits because of the lifetime disqualification due to a third intentional program violation.

DECISION AND ORDER

The ALJ, based upon the findings of fact and conclusions of law, decides that the claimant was not eligible for FAP benefits because of the lifetime disqualification due to a third intentional program violation and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director

Department of Human Services

Date Signed: September 23, 2009

Date Mailed: September 23, 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.

CL/cv

cc:

