

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: 2009-6676

Issue No: 3008; 3005

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 12, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on February 12, 2009. The claimant personally appeared and provided testimony through the use of a duly authorized representative and interpreter, Bushra Kherkher.

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits at the end of the certification period ending August 31, 2008?

FINDINGS OF FACT

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

1. The claimant was receiving FAP benefits when on August 13, 2008, the department mailed her a Continuing Your Food Assistance Benefits (DHS-2063A) form informing her that her current FAP benefits would expire on August 31, 2008. The letter

informed her that she must fill out a new application and attend an interview on August 22, 2008. A Verification Checklist (DHS-3503) was also mailed to her, requiring her to bring in proof of income, assets and household expenses (Department Exhibit #1, 2).

2. The department representative and the program manager testified that the worker told her the claimant did not attend the interview or fill out a new application and therefore, the benefits expired on August 31, 2008.

3. The claimant, by and through her representative and interpreter, testified that the representative had called the department to reschedule the August 22, 2008, interview as she could not attend on that date. The claimant's representative testified that she attended the interview with the department on August 29, 2008, and filled out the application for the claimant and submitted it on that date.

4. This Administrative Law Judge requested the program manager to look through the file and indicate if there were any applications from August, 2008 or any notes indicating the interview was held on a different date. The Program Manager indicated that "there wasn't anything in it."

5. The caseworker was called into the hearing to provide testimony as the program manager did not have any first-hand knowledge of the case. This Administrative Law Judge asked the caseworker if she recalled or could find an application in the file or any notes that the interview was rescheduled and held on August 29, 2008. The caseworker then informed this judge that the department had lost the claimant's case file, so she couldn't really provide any information.

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).

According to department policy, FAP benefits expire at the end of the benefit period unless a redetermination is completed and a new benefit period is entered. (PAM 210, p 2). If the claimant files a DHS-1171 Assistance Application or Filing Form, or a DHS-2063B, Food Assistance Benefits Redetermination Filing Record, the redetermination can be completed and the claimant's benefits will continue.

Policy requires the department to mail the claimant the DHS-2063A and B to the claimant to schedule an interview. Policy indicates that this form must be mailed to the claimant in the month prior to the redetermination month, but no later than two work days before the end of that prior month (PAM 210, p 7). In this case, the department did not adhere to the proper time schedules to get the required forms mailed to the claimant. The claimant's benefit period was set to expire on August 31, 2008. The department did not mail the DHS-2063 until August 13, 2008.

The claimant's representative testified that she met with the department representative for the required interview and filled out a new application for the claimant on August 29, 2009, prior to the benefit period expiration. Policy does allow the interviewed individual to be the claimant's authorized representative (PAM 210, p 8).

This Administrative Law Judge asked the program manager to check the claimant's file to find an August 2008 application for benefits or any notes indicating the interview was held

with the claimant's representative. The program manager stated multiple times that this material was not in the file. However, what the program manager specifically neglected to tell this Administrative Law Judge was that the department had lost the claimant's case file. It wasn't until the claimant's actual caseworker was called to testify in the hearing, that this Administrative Law Judge was informed that the department had lost the claimant's case file. When the program manager was pointedly asked if the claimant's August 2008 application could have been in the lost case file, she admitted that it could have been. Thus, it is clear that the department can not prove their case as they have lost the case file and any pertinent evidence that it contained.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly terminated the claimant's FAP benefits in August, 2008.

Accordingly, the department's action is REVERSED. The department shall:

1. Reinstate the claimant's FAP case back to the date of closure, August 31, 2008.
2. Issue the claimant supplemental FAP benefits back to the August 31, 2008 date of closure. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 24, 2009

Date Mailed: February 25, 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.

SLK [REDACTED]

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]