

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. 2009-7590
Issue No. 1002; 2012; 3004
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
January 26, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16409 and MCL 40037; MSA 16.437 upon the Claimants request for a hearing. After due notice, a telephone hearing was held on January 26, 2009. The Claimant was represented by his Authorized Representative (AR) his mother, [REDACTED]

ISSUE

Did the Department properly determine the Claimant's eligibility for Food Assistance (FAP), Medical Assistance (MA), and the Family Independence Program (FIP)?

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 26, 2007, the Claimant applied for FAP, and MA.
2. On July 16, 2007, the Department sent the Claimant a notice that his application for FAP and MA was denied. (Department Exhibit A).
3. On September 20, 2007, the Claimant again applied for FAP, FIP and MA.

4. The Department did not send notice of eligibility.
5. On December 18, 2008, the Claimant filed a request for a hearing.

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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Claimant attempted to question the denial of the May 26, 2007, application but this issue was no longer reviewable per PAM 600.

However, although the request for a hearing was filed December 18, 2008, and is well beyond a year after the application was made, the Department is unable to answer questions without equivocation as to when the September 20, 2007, application was registered and what action was taken on it. The Department did not send a notice of eligibility on the September 20, 2007, application.

STANDARDS OF PROMPTNESS

All Programs

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information.

Exception #1: For **FAP**, the SOP begins when the **correct** local office receives it. See PAM 110.

Exception #2: For **FAP**, when a person applies for SSI and FAP before being released from a medical institution, the SOP begins on the applicant's date of release.

See PAM 105, for the minimum required information for filing.

Process applications and requests for member adds as quickly as possible, with priority to the earliest application date. See "PROCESSING DELAYS" in this item. Requests for member adds must be registered on ASSIST. See AUM 150.

FIP, CDC, SDA, MA and AMP Only

Approve or deny the application and mail the client a notice within 45 days. If the client applied for CDC, the CDC provider must also be sent a notice within 45 days.

Exceptions:

- . 10 days for all pregnant Medicaid applicants.
- . 30 days for Refugee Assistance Program (RAP) Cash Assistance applicants.

- . **60 days for SDA applicants.**
- . **90 days for MA categories in which disability is an eligibility factor.**

The SOP can be extended 60 days from the date of deferral by the Medical Review Team.

For CDC, also send a notice to the client and provider applicant within six workdays of receiving the DHS-220-A/220-A-SP, Day Care Aide Provider Application, from a person applying to be a day care aide or the DHS-220-R/220-R-SP, Relative Care Provider Application, from a person applying to be a relative care provider. The notice must inform the client and provider applicant whether the provider application has been approved or denied. See PEM 704.

MA Only

The SOP for an **initial asset assessment** begins the date the local office receives a signed DHS-4574-B, Assets Declaration. Complete the assessment and mail the client and spouse a notice within 45 days. See PEM 402.

FAP Only

Expedited FAP benefits must be available to the group by the **seventh** calendar day after the application date. By this date, clients must have a Bridge card and access to their benefits. To be considered timely, you **must** process expedited FAP benefits by the fourth calendar day after the application date. See PAM 117.

The SOP for all other eligible FAP groups is 30 days. By this date, clients must have a Bridge Card and access to their benefits. To be considered timely, you must process FAP benefits by the twenty-seventh calendar day after the application date. See PAM 401E, Bridge Card Issuance. (PAM 115, pp. 11-13)

In the instant case, the Department is unable to verify when it registered the September 20, 2007 application. The Department responded that it was “pretty sure” that the Claimant’s FIP had been registered on the date of the application. The Department failed to follow its standard of promptness (SOS) in relation to the September 20, 2007, 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 return the September 20, 2007, application date, determine the Claimant's eligibility for FAP, FIP and MA and replace any lost benefits.

/s/

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

Date Signed: March 4, 2009

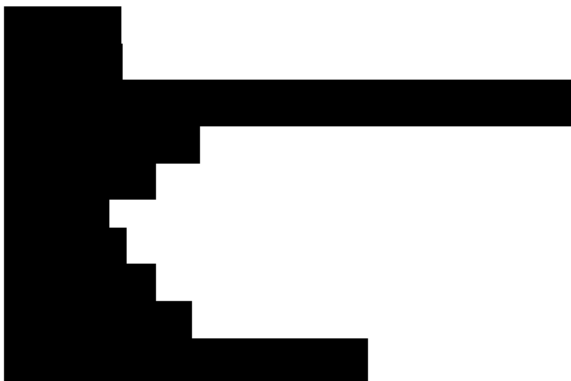
Date Mailed: March 9, 2009

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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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