

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: 2009-9201
Issue No: 1005, 3008
Case No. [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 8, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 July 8, 2009. The Claimant personally appeared and testified. A family independence manager represented the Department.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) redetermination applications for failure to attend an interview?

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 is a recipient of FIP and FAP benefits.
- (2) Because Claimant's case was scheduled for redetermination on September 22, 2008, an interview was scheduled for October 7, 2008.

- (3) Claimant was unable to attend the interview on October 7, 2008 because she was in jail. She was released on October 8, 2008.
- (4) On October 8, 2008, Claimant called her Department caseworker and left a message requested that interview be rescheduled. She explained that she had missed the interview the day before due to being incarcerated.
- (5) Claimant did not get a response to her request to reschedule the hearing.
- (6) The Department, however, had sent Claimant a notice on October 7, 2008 stating that she could reschedule her interview before October 31, 2008. (Exhibit 1).
- (7) The Department closed Claimant's cases on October 21, 2008.
- (8) The Department received Claimant's hearing request on December 3, 2008. (Exhibit 3).

CONCLUSIONS OF LAW

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 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).

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. (PAM 105, p. 5)

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. (PAM 105, p. 5)

Failure to Complete the Application Process

All Programs

You **cannot** deny an application due to incompleteness until 10 calendar days from the **later** of:

- Your initial request in writing to the applicant to complete the application form or supply missing information, **or**
- The initial scheduled interview.

Exception: For FAP, you **cannot** deny an application due to a **missed initial interview** until the **30th** day after the application date. You **cannot** deny an application for failure to provide verifications or complete the application process until the 30th day if the client has **not** attended the initial interview. (PEM 115 p.4)

Under PEM 105, Claimant has the responsibility to cooperate with the Department. In this case, Claimant did not attend the interview for her redetermination of FIP and FAP benefits because she was in jail. Upon being released from jail, Claimant promptly called her Department worker to request that her interview be rescheduled. Her testimony was credible. Moreover, the Department informed Claimant that she could reschedule her interview before October 31, 2008. In this case, Claimant asked on October 8, 2008 that her interview be rescheduled and her worker

did not respond. Therefore, it is found that Claimant did not fail to cooperate but rather made a reasonable effort to cooperate. Under these circumstances it is found that neither her FIP nor FAP case should be closed for failure to attend the redetermination interview scheduled for October 7, 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly denied Claimant's FIP and FAP redetermination applications.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to schedule another interview for Claimant and determine whether she is eligible for FIP and FAP benefits. If so, the Department is ORDERED to open her case to the date of her redetermination application and issue any retroactive benefits she would have been eligible to receive if her redetermination application had not been denied.

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

Date Signed: 07/23/09

Date Mailed: 07/27/09

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 90 days of the filing of the original request.

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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.

TW/dj

cc:

