

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: 2009-12015
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 March 19, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Food Assistance Program (FAP) benefits in December, 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. Claimant was a FAP recipient when the department terminated her case on December 31, 2008, for failure to cooperate with a Quality Control audit review (Department's Hearing Summary).
2. Claimant requested a hearing on January 6, 2009.

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).

Departmental policy requires that clients cooperate with the local office in determining initial and ongoing eligibility. Clients must also cooperate with local and central office staff during quality control (QC) reviews. When a lack of QC review cooperation is apparent, the QC auditor notifies the client of the consequences. Client's caseworker receives a copy of the notice, and if contacted by the client regarding the audit request is to advise him/her to cooperate with the auditor. When notified by a QC auditor that the group failed to cooperate with a QC review, the caseworker is to close FAP benefits. The auditor recommends closure on a DHS-1599, Quality Control Audit Results Summary, and the caseworker receives a copy. The group is ineligible until after the date shown on the summary attached to the DHS-1599 or until the group cooperates with the auditor, whichever occurs first. If the FAP group agrees to cooperate with the QC review during the ineligibility period, caseworker is to notify the auditor by telephone and follow-up memo. Once notified of the audit results, the caseworker is to accept and process the group's reapplication. PAM, Item 105, pp. 5-7.

Department's documentation for this hearing consists of the Hearing Summary and second page of DHS-176, notice of FAP case closure. DHS-1599, form required by quoted

policy, has not been provided for the hearing. Therefore, most of the information provided for the hearing consists of the hearing testimony to reconstruct what occurred.

Claimant testified that she received a letter about a QC audit from an unknown address in [REDACTED]. Claimant stated she was somewhat nervous about reporting to an unknown address that was not connected to the department. Claimant further stated that she did not have transportation to report on the date of the interview, and that she called a number on the QC audit letter and left a message that she could not report. No one returned claimant's telephone call, and she was also unable to reach her caseworker as the voice mail was always full.

Department's representative states that a memo from QC audit staff was received on December 17, 2008, saying that the claimant was not cooperating and to close her case. Claimant did contact departmental manager present at the hearing in January, 2009, and an e-mail was sent to the QC unit. QC unit however responded that they will not contact the claimant as her "sanction" was already in effect.

Department's representatives state that it is quite possible that the claimant tried to contact the QC audit staff when she received their letter without success. It is also possible that the claimant was unable to reach her caseworker during the period of time her case was pending to close. QC audit unit staff's response to department's contact in January, 2009 that a sanction was in effect and they would not contact the claimant is clearly incorrect and in violation of the quoted policy that states that a client is to be contacted right away if they express willingness to comply with the audit.

It is noted that department's staff present at the hearing were unable to respond to some of the questions about the QC audit unit's actions on claimant's case, as they were not provided with information from this unit. Detailed information about actions taken on claimant's case, any documentation about possible attempts or lack of such from the claimant to contact QC audit

unit, or participation of QC audit unit staff in the hearing at least by telephone would have been very helpful for department's presentation.

In conclusion, based on the testimony from the department and the claimant, claimant's FAP benefits must be reinstated as they were closed in error without giving the claimant the opportunity to cooperate with the QC audit.

DECISION AND ORDER

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

Accordingly, department's action is REVERSED. Department shall:

1. Reinstatement claimant's FAP benefits retroactively to December, 2008 closure.
2. Issue the claimant any FAP benefits she did not receive as a result of December, 2008 closure.
3. Notify the QC audit unit that the claimant's case has been reinstated and that she is willing to cooperate with the audit.
4. Claimant is advised that she must report for any interviews with the QC audit unit to prevent future issues with her FAP benefit eligibility.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 23, 2009

Date Mailed: March 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.

IR [REDACTED]

cc: [REDACTED]