

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: 2009-12136

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 18, 2009

Midland 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 March 18, 2009. The claimant personally appeared and testified.

ISSUE

Did the department properly close the claimant's Food Assistance Program (FAP) case in January, 2009?

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 a recipient of FAP benefits when in December, 2008 her case came due for recertification (Hearing Summary).

2. The department caseworker sent the claimant a Verification Checklist (DHS-3503) indicating that the claimant should call the worker for a telephone interview on December 23, 26, 29 or 30, 2008 (Department Exhibit #1).

3. The claimant did not call the caseworker for the telephone interview and the department closed her FAP case on January 13, 2009 (Department Exhibit #2).

4. The claimant's hearing request was received by the department on January 14, 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).

Department policy states:

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 the necessary forms. PAM, Item 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, Item 105, p. 5.

Departmental policy indicates that when a claimant's FAP benefit period expires, the department is to conduct a redetermination. PAM 210. Departmental policy requires an interview with the claimant. In the claimant's case, the in-person interview can be waived because she is a senior, disabled or veteran (SDV) household with only unearned income. PAM 115. Therefore, the claimant was eligible for a telephone interview. The department worker mailed the claimant a Verification Checklist (DHS-3503), indicating the claimant should call the department worker on any of four specified days, by December 30, 2008. The claimant did not call for an interview, so the department worker closed her FAP case on January 13, 2009.

Department policy requires that if the claimant misses the interview, the department must send the claimant a Notice of Missed Interview (DHS-254). This document informs the claimant that she did not attend her required interview and gives her one more opportunity to call and schedule it prior to the case closure. In this case, the Notice of Missed Interview was not sent to the claimant. Therefore, the claimant did not have the benefit of being reminded one more time to participate in the interview.

Due to this fact, the department worker agreed to re-open the claimant's FAP benefit case back to the date of closure and issue any supplemental benefits that the claimant is entitled to. The department representative indicated that she would conduct the interview with the claimant on the date of this hearing, since the claimant was in the office for the hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department and the claimant have reached an agreement to re-open the claimant's FAP benefit case.

Accordingly, the department's action is REVERSED. The department has agreed to:

1. Re-open the claimant's FAP benefit case to the date of closure, January 13, 2009.
2. Issue the claimant any retroactive benefits that she is entitled to.

SO ORDERED.

/s/
Suzanne L. Keegstra
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.

SLK 

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