

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: 2009-18405
Issue No: 3012, 6027
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 25, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted on June 25, 2009. The Claimant appeared and testified. Joyce Smith, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly processed the Claimant's Food Assistance ("FAP") and Child Development and Care ("CDC") benefits following Claimant's 1/23/09 application.

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 applied for FAP benefits on January 23, 2009.
2. The Department failed to timely process the application.
3. The Claimant filed a request for a hearing on March 17, 2009 at which time the Department processed Claimant's application.

4. Claimant testified that, at the time of application, she had a household of four.
5. A Food Assistance Budget was compiled dated March 24, 2009. (Exhibit 1, pp. 3-4).
6. The Department testified that Claimant was excluded from the household for a child support sanction and, therefore, FAP was denied. (See, Exhibit 1, p. 1).
7. Claimant testified that she has not yet reported the name of the father for her two minor children.
8. A CDC budget was compiled dated March 24, 2009 (Exhibit 1, p. 5).
9. Claimant was denied CDC benefits based on excess income.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department

policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. PEM 255, p. 1 Failure to cooperate without good cause results in disqualification. PEM 255, p. 1 If good cause exists, cooperation is excused as an eligibility requirement for the child involved. PEM 255, p. 2

The Department is required to process applications within the standard of care set forth in the applicable regulations. The standard of care for FAP benefits is 30 days for non expedited cases. PAM 115, p. 12. The standard of care for CDC benefits is 45 days. PAM 115, p. 11. As the Department acknowledged, the standard of care was not met in this case.

In this case, Claimant's testimony revealed that she has failed to cooperate with the office of child support and provide the identity of the father of her minor children. A prorata share of income is budgeted for the remaining group members when one has been disqualified to due to failure to cooperate with paternity. PEM 550, p. 2. For the FAP budget, all monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. In the 3/24/09 budget, the Department used a prorata portion of the household income, but did not reduce the household income by 20%. Accordingly, the Department's determination to deny benefits based on Claimant's disqualification is REVERSED.

There is an income limit above which CDC benefits are not provided. PEM 703, RFT 270. For a group size of four (4), the income limit is \$2,367.00. Claimant's total gross household income is \$2,654.00 which is over the income limit. Accordingly, the Department

was correct is determining that Claimant was over income for CDC benefits and the CDC denial is AFFIRMED.

It is noted that Claimant is entitled to reapply for benefits at any time, especially, if there are changes in Claimant's group size, income or disqualification status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds as followed:

It is ORDERED that:

1. The Department failed to comply with the standard of care and process Claimant's 1/23/09 FAP and CDC applications in a timely manner.
2. The Department improperly calculated the Claimant's FAP allotment and the FAP denial is REVERSED. The FAP case shall be reopened to the date of application and reprocessed utilizing 80% of the prorated earned Income.
3. The Department properly calculated the Claimant's income as exceeding the income limits for CDC and, therefore, properly denied CDC benefits. The CDC determination is AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/02/09

Date Mailed: 07/08/09

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.

JV/dj

cc:

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