

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: 2009-22145
Issue No: 2012, 3012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 15, 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 hearing received by the Department on May 4, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 15, 2009. The Claimant appeared and testified. Brenda Sage, FIM and Yvonne Davis, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly processed Claimant's Medical Assistance ("MA") and Food Assistance Program ("FAP") applications.

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 March 24, 2009, the Claimant was granted guardianship of her niece and nephew. Claimant submitted an application the same day for public assistance seeking MA and FAP benefits at the McNichols/Stoddard DHS office.

2. The minor child was already receiving benefits through their mother out of the 7 Mile/Gratiot office.
3. Claimant submitted a copy of the guardianship papers with her application.
4. Claimant received FAP benefits in June 2009 through the McNichols/Stoddard DHS office.
5. However, April and May FAP benefits were paid to the minor children's mother even though the children were living with Claimant.
6. Claimant testified that having the MA benefits listed under the children's mother rather than Claimant, as guardian, has caused difficulty in obtaining medical care for the children.
7. The Department acknowledged that Claimant has done everything properly and that the delay in changing benefits was the fault of the Department.
8. On March 10, 2008, the Department received the Claimant's written hearing request protesting the December 11, 2007 denial. (Exhibit 8)

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903. A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1). A claimant shall be provided 90 days from the mailing of the notice to request a hearing. MAC R 400.904(4); PAM 600, p. 4

The Medical Assistance (“MA”) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services pursuant to MCL 400.10, *et. seq.* The Department of Human Services (“DHS”), formally known as the Family Independence Agency, administers the 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 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).

A request for public assistance may be in person, by mail, telephone or through by an internet application. PAM 110, p. 1. Clients must complete and sign public assistance applications. PAM 115, p. 1. An application is incomplete until enough information is provided to determine eligibility. PAM 115, p. 3. The Department is required to process each application within a specified time period. This standard of promptness begins the date the department receives an application/filing form, with minimum required information. PAM 115, p. 10-11. The Department is required to approve or deny the application and mail the client a notice within 45 days. PAM 115, p. 11. The Standard of promptness for MA cases cannot be changed for any reason.

In the subject case, 45 days have passed and the Department has failed to transfer the case from the 7 Mile/Gratiot office to the McNichols/Stoddard office to allow the children's MA case to be placed in Claimant's name. Therefore, The Department has failed to meet the Standard of Promptness. Furthermore, the Department failed to timely process the Claimant's FAP case and continued to distribute benefits to the children's mother when the children are living with Claimant. The undersigned finds that Claimant has complied with her application obligations, yet she is not receiving benefits for which her group should qualify.

Based upon the foregoing facts and relevant law, it is found that the Department failed to process Claimant's FAP and MA benefits within the Standard of Promptness.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department failed to process the Claimant's FAP and MA benefits within the Standard of Promptness.

Accordingly, it is ORDERED:

1. The Department shall open MA cases for the two minor children over whom Claimant has guardianship at the Wayne County DHS #9 district and process from the date of application in Claimant's name.
2. The Department shall open the Claimant's FAP case including the two minor children over whom she has guardianship from the date of application, and supplement the Claimant for any lost benefits she was otherwise entitled to receive.

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

Date Signed: 06/24/09

Date Mailed: 06/29/09

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.

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:

