

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: 2009-22212

Issue No: 3005; 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 17, 2009

Genesee 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 June 17, 2009. Claimant personally appeared and testified along with her daughter.

ISSUE

Did the department correctly terminate claimant's Food Assistance Program (FAP) benefits in April, 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. Claimant was a FAP recipient when her case came due for a yearly review, as her FAP certification period was ending on April 30, 2009.
2. On April 1, 2009, claimant's caseworker mailed her review materials setting up an interview appointment for April 14, 2009.

3. Claimant did not attend the review appointment. A notice of missed interview was mailed to the claimant, but according to the testimony of her caseworker no response was received.

4. Claimant's caseworker terminated claimant's FAP benefits on April 30, 2009, due to certification period expiring on this date. Claimant requested a hearing on May 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).

Department provided the Hearing Summary and claimant's hearing request as documentation for this hearing. All information pertaining to actions taken on claimant's FAP case was therefore obtained through the hearing testimony. This testimony reveals that claimant's FAP benefits were expiring on April 30, 2009, as this was the end of the certification period. Department was therefore required to complete a redetermination on claimant's case prior to April 30, 2009.

A redetermination is a periodic, thorough re-evaluation of all eligibility factors to determine whether the group continues to be eligible for program benefits. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is entered. Department is to mail a new application and other forms in the month **prior** to the

determination month, but **no later** than two workdays before the end of that prior month. If the forms are not mailed within that time period, the timely filing date must be adjusted. If the department mails the client's redetermination materials late, the timely filing date is 17 days after the materials are mailed. PAM 210.

In claimant's case hearing testimony is that her caseworker mailed the redetermination materials on April 1, 2009. Claimant testified that she did not receive the materials until April 14, 2009, as she spent 4-5 days with her daughter. Claimant further testified that she tried to call her caseworker on that date and on several days after April 14, 2009, but the caseworker's voice mail box was full and she could not leave a message. Caseworker stated that she does have a large number of telephone calls and that her voice mail does get full at times. Claimant further stated that she left a message on April 23, 2009, but the call was never returned. Claimant's caseworker does not recall a message from the claimant.

Hearing testimony is not sufficient for this Administrative Law Judge to determine that the claimant did not indeed attempt to contact the department regarding her review appointment and/or materials prior to April 18, 2009, (17 days after the date of mailing of these materials). Claimant's caseworker does not dispute that her voice mail box indeed gets full at times, preventing other messages from being left on it. Furthermore, if the message from the claimant she testified she left on April 23, 2009, was delivered to her caseworker, a telephone review could have taken place allowing claimant's FAP benefits to possibly be recertified and continued past April 30, 2009. For these reasons department shall accept claimant's review application and process claimant's FAP review, action that the claimant's caseworker is in agreement with.

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 at the end of April, 2009.

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

1. Process claimant's review application (that she had in her possession on the date of the hearing according to the testimony).
2. Reinstate claimant's FAP benefits effective May 1, 2009, if she meets all financial and non-financial eligibility requirements, and issue her any benefits she did not receive.
3. Notify the claimant in writing of this determination.

SO ORDERED.

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

Date Signed: June 22, 2009

Date Mailed: June 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]