

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: 2009-23613
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 1, 2009
Kent 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 July 1, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Food Assistance Program (FAP) application 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 applied for FAP on February 23, 2009, by submitting an application, an incomplete employment verification form, DHS-38, dated September 26, 2008, utility bills and a phone and insurance statement for her husband's business.

2. Claimant was scheduled for an in-person interview on March 24, 2009. Claimant attended the interview and provided two check stubs from her employer dated March 6 and March 20, 2009.

3. Claimant was given a Verification Checklist, DHS-3503, giving her until April 6, 2009, to provide paycheck stubs for February 6 and February 20, 2009. (Department's Exhibit 30).

4. On March 26, 2009, claimant faxed a copy of her residential lease and a paycheck stub for February 20, 2009. (Department's Exhibits 31-33).

5. Claimant's caseworker testified that she called the claimant upon receiving the fax to ask for February 6, 2009, paycheck stub. Claimant states in her hearing request that she did receive this call, but could not find her missing check stub at home, she asked her work for this but they did not give "priority" to providing it.

6. Department did not receive February 6, 2009, paycheck stub and denied claimant's FAP application on April 9, 2009. Claimant requested a hearing on April 15, 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 in PAM 115 addresses situations where a FAP application pends beyond 30 days after the application date. This policy requires that the department determine

who is at fault for the delay every 30 days after the application date. In claimant's case, department received her FAP application on February 23, 2009, and 30 days following the application date would be March 25, 2009. Department did not schedule claimant's initial FAP interview until March 24, 2009, and this is the date she was given a DHS-3503 to provide missing verifications. Departmental policy states that the local office is at fault for FAP application pending beyond the 30th day if request for necessary verifications was not made at least 10 days before the 30th day. Therefore, department was at fault for the delay in claimant's FAP application processing.

Secondly, departmental policy also states that the FAP begin date depends on the group's eligibility **and** whether the 30-day standard of promptness (SOP) has been met. When the 30-day SOP is met, or it is not met but the group is not at fault for the delay, the begin date is the application date if the group is eligible for the application month (even if proration causes zero benefits), or the first day of the month **after** the application month **if** that is when the group becomes eligible. PAM 115, p. 19. In claimant's case the only missing information needed for processing her FAP application was a paycheck stub for February 6, 2009. Claimant had provided paycheck stubs for March, 2009. Department therefore should have denied FAP benefits to the claimant for February, 2009 due to her failure to provide requested paycheck stub for that month, but approved FAP if she was found to be eligible starting March 1, 2009, as employment information for that month was in department's possession.

It is noted that the claimant testified that she is not contesting the CDC determination, and that her only concern are the FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's FAP benefits in April, 2009.

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

1. Process claimant's disputed February 23, 2009, FAP application and deny her such benefits for February, 2009, but determine her eligibility for such benefits starting March 1, 2009.

2. If the claimant is found to be FAP eligible for March, 2009, approve her application and issue her any such 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: July 2, 2009

Date Mailed: July 7, 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

cc:

[REDACTED]