

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: 2009-23896

Issue No: 3012; 6019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 1, 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 July 1, 2009. Claimant personally appeared and testified.

ISSUE

1. Did the department correctly deny claimant's Food Assistance Program (FAP) application in May, 2009?
2. Has the department determined claimant's Child Development and Care (CDC) program eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. According to the only document provided by the department for this hearing, Hearing Summary, claimant applied for FIP, FAP and CDC on April 1, 2009. FIP was denied due to excess income by the JET specialist on April 10, 2009.

2. Claimant was to provide verification of stopped income from one employer and current income form another employer for March, 2009 supposedly within the next day to the JET specialist.

3. Eligibility Specialist (ES) that was handling claimant's remaining FAP and CDC application did not receive this income information, so she mailed the claimant a Verification Checklist, DHS-3503, on April 20, 2009 with a due date of April 30, 2009. Employment Verification form, DHS-38 was received on April 30, 2009 for previous employer but not the pay stubs for current employer.

4. ES discovered missing pay stubs when she went to process the case, and contacted the claimant on May 8, 2009 about the pay stubs. Pay stubs were received by ES on May 12, 2009, but the thirty day time period was up on May 11, 2009.

5. Hearing Summary ends with the sentence "ES specialist spoke with supervisor and explained the oversight on her part and that she would look at the case still since it was not denied on the thirty day".

6. Hearing Summary also indicates as action effective date May 22, 2009 and the date claimant was notified of department's action as May 19, 2009. Claimant requested a hearing on May 19, 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).

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 (DHS or department) 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).

As stated above, the only document provided for this hearing by the department is the Hearing Summary. Eligibility Specialist that prepared the Hearing Summary and handled claimant's FAP and CDC application is not available for the hearing. Department's representative present at the hearing is not familiar with claimant's case and additionally states that claimant's case record could not be located prior to the hearing. Representative also states that the supervisor advised her that the Hearing Summary explains everything that was done on claimant's case.

Hearing Summary is department's statement of what occurred on any particular case. Documentation required by the policy is needed to determine if the department acted in accordance with such policy. PAM 600. The Administrative Law Judge cannot simply take

department's word for their actions unless the claimant has no dispute with such actions. In this case, the Administrative Law Judge will use the information from the Hearing Summary, as it establishes that the department did not act in accordance with policy.

Hearing Summary indicates that the claimant applied for FAP on April 1, 2009. Department requested income information from the claimant via DHS-3503 on April 20, 2009. Claimant provided DHS-38 on April 30, 2009, but did not provide pay stubs from current employer until May 12, 2009. Hearing Summary states that the 30-day "time period" was up on May 11, 2009. ES is apparently referring to the standard of promptness (SOP) to process a FAP application. Claimant's FAP application had not been denied as of May 12, 2009, and not until May 22, 2009, according to the Hearing Summary.

Department's policy directs caseworkers to determine who is at fault for the delay every 30 days after the application date for a pended application. This affects an approval of benefits for the months of delay, but not necessarily a denial. If the 30-day SOP is not met and the group is at fault, department is to enter Disposition code 801 on their computer system on the 30th day to prevent an overdue registration on worker reports, send a DHS-1150, Application Eligibility Notice, to inform the group that the case is pended and will be denied on the 60th day unless the needed actions are taken, and prorate benefits from the date the group complies with all application requirements. The group is at fault when the caseworker has taken all required actions but the group has not provided all verifications by the 30th day, despite 10 days or more to provide them, or attend the scheduled interview. PAM/BAM 115, p. 24.

Department's Hearing Summary appears to indicate that the claimant may have been at fault for not providing requested income information. However, such conclusion cannot be reached with certainty by the Administrative Law Judge, as no documentation has been provided

to show that the department requested this information in the time frames required by policy, or whether the claimant contacted the caseworker to ask for additional time to provide such verification. Even if it is determined that the claimant was at fault, she would be eligible for FAP benefits starting on May 12, 2009 at the very least.

Claimant also states that she does not know what happened with her CDC application, and that her caseworker told her it had been approved and to call Lansing, but when she called Lansing she was told her CDC application had not been approved. As neither the case record or claimant's caseworker are available for the hearing, this question cannot be addressed at the hearing, and must be further investigated by the department.

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 May, 2009, and that it is unknown if the department processed claimant's CDC application.

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

1. Review claimant's case record and circumstances surrounding her April 1, 2009, FAP and CDC application to determine if FAP processing delay was due to her fault or that of the department. This determination will include review of forms mailed to the claimant by her caseworker, including a DHS-1150 on April 30, 2009, to inform her that the case is pended and will be denied on the 60th day unless the needed actions are taken.
2. Upon completing such determination, process claimant's FAP application and issue her any benefits she is eligible for, based on her April 1, 2009 application.
3. Review claimant's case to determine what occurred on her CDC application, i.e. was it approved, denied or is it still pending.

4. Notify the claimant in writing of these determinations.

SO ORDERED.

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

Date Signed: July 2, 2009

Date Mailed: July 2, 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 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.

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