

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: 2009-29503
Issue No: 3022
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 17, 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 three way telephone hearing was conducted on August 17, 2009. The Claimant appeared and testified by telephone. Ida Crum, FIM and Crystal Howell, FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance ("FAP") benefits after Claimant missed a redetermination appointment 5/19/09.

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. Claimant was scheduled for a yearly redetermination for May 13, 2009. (Exhibit 1, p. 2).

3. Claimant was sick on the day of the interview and failed to appear.
4. Claimant testified that she had the flu on the date of the 5/13/09 interview.
5. The Department rescheduled the interview on 5/19/09 and Claimant failed to appear again.
6. Claimant testified that she never received notice of the second interview on 5/19/09.
7. The Department gave Claimant until 6/2/09 to turn in a written application and complete the redetermination interview by telephone.
8. Claimant testified that she mailed in the application.
9. Claimant also testified that she has not suffered any loss of benefits.
10. The Department mailed out a notice of denial of benefits.
11. At the end of the hearing, the Department acknowledged that they had received the application, processed it and Claimant had not lost any benefits.
12. Claimant filed this appeal. The Department received the Claimant's Request for Hearing on June 2, 2009.

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 federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, a standard deduction (\$135) is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id.

In the present case, the Department acknowledged that the redetermination application was processed after the case had closed. However, the Department reopened Claimant's case and reimbursed her for benefits lost. Therefore, the Department has already corrected its actions and Claimant is not currently suffering any loss. Based upon the foregoing facts and relevant law, therefore, this hearing request is dismissed with prejudice.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department has already corrected its error and Claimant is not suffering any loss of benefits.

Accordingly, this hearing request is dismissed with prejudice.



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

Date Signed: 09/09/09

Date Mailed: 09/10/09

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 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.

JV/dj

cc:

