

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg No: 2009-33138

Issue No: 1010

Case No: ██████████

Load No: ██████████

Hearing Date:

October 5, 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 August 11, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on October 5, 2009. The Claimant was present and testified at the hearing. Mattie Compos, FIM and Oswaldo Gutierrez, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly processed Claimant's and Child Development and Care Program ("CDC") application and properly denied Claimant benefits?

Whether the Department properly calculated Food Assistance Program ("FAP") benefits?

FINDINGS OF FACT

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

1. Claimant testified that she applied for various DHS benefits programs in October of 2008, including CDC benefits.
2. Claimant's file was transferred to the Taylor office on 3/7/09. In the transfer, Claimant's entire paper file was lost. Therefore, the Department had no information regarding the initial application.
3. CDC benefits were granted effective 3/7/09. A notice was mailed out on 4/21/09 notifying Claimant of the CDC benefits award. (Exhibit 2).
4. Claimant testified that she never received notice of a CDC award or denial from the initial application. The Department was unable to testify regarding Claimant's initial application.
5. Claimant testified that she never received the 4/21/09 CDC award notice.
6. The Department acknowledged that an error was made in budgeting Claimant's FAP benefits and child support income – a one time lump sum tax return was averaged into the child support income.
7. The agency agreed to recalculate Claimant's FAP benefits and issue a supplement.
8. On March 24, 2008, the Department received the Claimant's written hearing request.

CONCLUSIONS OF LAW

A. CDC

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 – 400.951. 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 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 (formerly known as the Family Independence Agency) 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).

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. Exceeding the SOP cannot be the sole reason for a denial. PAM 115, p. 23.

In the subject case, the Claimant testified credibly that she applied for CDC benefits in her original application of October, 2008. The Department could not say whether Claimant applied for CDC benefits or if the application was properly processed due to the lost file. This Administrative Law Judge finds, therefore, that the Department failed to process the case within the required 45 days. Accordingly, The Department has failed to meet the Standard of Promptness.

Based upon the foregoing facts and relevant law, it is found that the Department failed to process Claimant's CDC benefits within the Standard of Promptness. Since this cannot be the sole reason for a denial, the Claimant's CDC benefits should be retroactive to the date of original application, October, 2008.

B. FAP

Under Program Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case the Department has agreed to recalculate Claimant's FAP benefits, deleting the lump sum child support payment, and supplement the Claimant for any CDC benefits that she was entitled to receive. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing. Since the Claimant and the Department have come to an agreement it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing on the FAP issue.

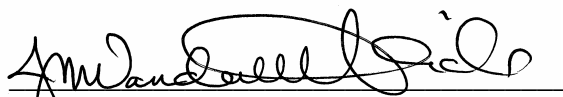
Accordingly, it is ORDERED:

1. The Department shall recalculate Claimant's 3/7/09 FAP case.
2. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive pursuant to Department policy.

Furthermore, 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 CDC benefits within the Standard of Promptness.

Accordingly, it is ORDERED:

1. The Department shall reopen and reprocess Claimant's CDC case to the original date of application, or 10/1/08.
2. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive pursuant to Department policy.



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

Date Signed: 11/03/09

Date Mailed: 11/09/09

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

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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:

