

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: 2009-33574

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 22, 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 September 22, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Food Assistance Program (FAP) application in July, 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 benefits on May 19, 2009, by filing a filing form. (Department's Exhibits 2 and 3).

2. On May 22, 2009, department mailed the claimant a Pending Application Notice form, DHS-330, requesting she complete and return an enclosed application before May 29, 2009 in order for her FAP request to be processed. (Department's Exhibit 4).

3. On July 18, 2009, department mailed the claimant an Application Notice telling her that her FAP application has been denied due to her failure to provide the information needed to determine eligibility. (Department's Exhibit 1).

4. Claimant requested a hearing on July 31, 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 caseworker that handled claimant's FAP application is not available for this hearing. Claimant testified that she never received the DHS-330 asking her to complete an application, but that she had called and talked to the caseworker about 4 times since May, 2009. Claimant further testified that she told the caseworker that she never received the DHS-330 and that she had been having mail problems as even Social Security checks had been stolen in her neighborhood. Claimant states that the caseworker told her she would send her another application but never did so. Claimant also states that she talked to the caseworker about an increase in her rent.

Department's representative testified that there are no notes in claimant's case record from the caseworker documented any contact with the claimant. Hearing Summary indicates that the claimant was offered a case conference on August 13, 2009 and that she accepted. Hearing Summary was completed by the caseworker that handled claimant's FAP application on August 13, 2009. According to department's representative there are no notes in claimant's caseworker explaining what occurred at the case conference. Therefore, the fact that the caseworker did not document any contact with the claimant that the claimant testified she repeatedly had prior to her FAP application being denied cannot be accepted as evidence that such contact did not occur. Since there is no documentation of the case conference the caseworker indicated on the Hearing Summary was offered and accepted by the claimant, possibility exists that the caseworker also omitted to document contacts with the claimant and denied her FAP application without taking into account such contacts.

Lastly, it seems unlikely that the claimant would not attempt to contact the department for almost 2 months that it took to deny her FAP application, as she states in her hearing request that she is in need of food. Claimant's testimony that she contacted her caseworker in an attempt to comply with actions needed to process her FAP application are therefore found to be credible as her caseworker is not available to dispute her testimony.

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 application in July, 2009.

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

1. Accept a completed application for FAP from the claimant that was to be given to her by department's representative following the conclusion of the hearing.

2. Process such application with May 19, 2009 application date and request any other information needed to determine claimant's FAP eligibility.

3. If the claimant is found eligible for FAP based on May 19, 2009 application date, issue her any FAP benefits since May, 2009 to present that she is entitled to, but did not receive.

4. Notify the claimant in writing of these actions.

SO ORDERED.

/s/

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

Date Signed: September 28, 2009

Date Mailed: September 29, 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.

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