

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: 2009-34554

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 6, 2009

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 hearing was held on October 6, 2009 and claimant appeared and testified. [REDACTED] appeared as an interpreter from the [REDACTED]. Sarah Thomas, FIM and Cherry Wheat, ES, appeared on behalf of the deopartment.

ISSUE

Whether the Department properly closed claimant's Food Assistance Program (FAP) benefits for failure cooperate with returning requested verifications and attending an interview.

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 was an ongoing recipient of FAP benefits in a household of one person.

2. On June 28, 2009, the department mailed claimant a redetermination packet requesting he provide requested verifications attend an interview on July 7, 2009. (Department Exhibit pgs. 4-7)

3. Claimant did not attend the interview or return the requested verifications by July 7, 2009.

4. The department received a voice message for the caseworker to cancel the appointment.

5. The case worker attempted to call claimant twice in response to the voice mail, but was hung up on each time.

6. The department also issued a Missed Appointment notice giving claimant until July 31, 2009 to reschedule the interview.

7. The department closed the FAP case on July 31, 2009 for failure to provide the requested verifications and attend the interview as there had been no further communication from claimant.

8. Claimant testified he was unable to attend the interview or return the verifications by the due date because he had to unexpectedly travel to Bosnia after his brother and sister died in a car accident.

9. Claimant was out of the country from June 20, 2009 until August 18, 2009.

10. On August 24, 2009 the department received claimant's hearing request contesting the closure and the requested redetermination packet was attached.

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 Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Program Reference Manuals.

The department periodically re-evaluates cases to ensure that eligibility for program benefits continues. A redetermination is a periodic, thorough re-evaluation of all eligibility factors to determine whether the group continues to be eligible for program benefits. BAM 210. Clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. BAM 105. The department is to allow clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the 10th day falls on a weekend or holiday, the verification would not be due until the next work day. BAM 210. A negative action notice is to be sent when the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

In the present case, claimant’s ongoing FAP benefit case was up for redetermination. The department issued a Verification Checklist on June 18, 2009, with an interview date and due date to return requested information of July 7, 2009. (Department Exhibit pgs. 4-7) Claimant did not attend the interview or submit the verifications by the due date. However, the department did receive a voice mail requesting that the appointment be cancelled. The department attempted to call claimant back twice, but was hung up on each time. The department also issued a missed appointment notice on July 8, 2009 giving claimant until July 31, 2009 to reschedule the interview. The department closed the FAP benefits on July 31, 2009 as there had been no contact from claimant.

Claimant provided credible testimony that he was out of the county unexpectedly due to his brother and sister's death in a car accident. Claimant's passport contained stamps supporting his testimony that he left for Bosnia on June 20, 2009 and returned to the country on August 18, 2009. Claimant returned the redetermination information with the hearing request, which was received by the department on August 24, 2009. However the claimant's FAP benefits had already closed on July 31, 2009.

Further, even if the department had received claimant's information prior to the July 31, 2008 deadline, claimant's FAP benefits would still have closed. Claimant was the only member of his FAP group. Under BEM 212, a person is still considered to be living with the FAP group if the absence is only temporarily. A person's absence is temporary if:

- . His location is known; and
- . He lived with the group before his absence (newborns are considered to have lived with the group); and
- . There is a definite plan for his return; and
- . The absence has lasted or is expected to last 30 days or less.

BEM 212. Claimant's testimony, as supported by the stamps in his passport, indicates that claimant was out of the county for more than 30 days. Accordingly, his absence cannot be considered temporary under the FAP policy. Claimant was the only FAP group member and would not have been eligible to continue receiving FAP benefits.

Based upon the foregoing facts and relevant law, it is found that the department's FAP determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed claimant's FAP benefits. Claimant had not responded to the verification checklist or notice of missed interview by the final July 31, 2009

deadline. Further, claimant was no longer eligible for FAP benefits because he was out of the country for more than 30 days.

Accordingly, the department's FAP eligibility determination is AFFIRMED.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 8, 2009

Date Mailed: October 12, 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.

CL/cv

cc:

