

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: 2009-34672
Issue No: 1005, 2006, 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 27, 2009
Berrien 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 telephone hearing was held on October 27, 2009. Claimant was present and testified. Darlene Leonard, FIM, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close claimant's ongoing Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA) benefits for failure to attend an interview and return information needed for redetermination?

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 FIP, FAP and MA benefits.
- (2) On July 17, 2009, the department mailed claimant a DHS 1010 Redetermination form indicating that claimant needed to complete and return the form and attend an interview scheduled for August 4, 2009. (Department Exhibit 1, pg. 1)
- (3) Claimant did not attend the interview or return the redetermination form by the August 4, 2009 due date, however claimant testified she did call the department and let them know she could not attend on that date.
- (4) On August 4, 2009, the department mailed claimant a notice of missed interview.
- (5) On August 18, 2009, the department issued a Notice of Case Action indicating that the FIP, FAP and MA benefits would close September 1, 2009. (Department Exhibit 2 pgs. 3-6)
- (6) Claimant contacted the department the week of August 24, 2009 and a new interview was scheduled for August 27, 2009.
- (7) On August 27, 2009, claimant appeared at the local office, however there was a power outage and the department was not able to perform the interview.
- (8) Claimant requested a hearing on August 31, 2009 to contest the FIP, FAP and MA determinations.
- (9) A third interview appointment was scheduled for September 1, 2009 and claimant did not attend.

(10) Claimant testified there was no notice given to attend the September 1, 2009 appointment. Claimant testified that when she called the morning of September 1, 2009, the worker told claimant she had to come in for the interview that same day.

(11) The FIP and MA benefits were reinstated pending the hearing outcome but the FAP benefits remained closed.

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manuals.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10,

et seq., and MCL 400.105. Department 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. (BAM 210) Under BAM 105, clients must cooperate with the local office in determining initial and ongoing eligibility. The department is to request verification when required by policy, when required by local office option, or when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130. 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. The department must help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. BAM 210. The Department's Bridges computer system sends the client a DHS-1010, Redetermination Form. The DHS-1010 including the interview date, place and time and a list indicating what verifications are required. BAM 210. Under BAM 115, if the client calls to reschedule an interview for a FAP case, the interview should be set prior to the 30th day, if possible. However, policy does allow for a processing delay when if interview rescheduling causes the case to be pending on the 30th day. BAM 115

In the present case, clamant testified she had completed the Redetermination form and intended to submit it to the department when she attended the required interview. Claimant testified she could not attend the interview scheduled for August 4, 2009 and contacted the department at that time and spoke with her caseworker. Claimant testified she did not receive notice in the mail for a new interview date.

Claimant's caseworker was not present at the hearing, but her hearing summary, a case note dated September 9, 2009 and a September 2, 2009 email to her supervisor do not indicate that she received a call from claimant until the week of August 24, 2009. (Hearing Summary, Department Exhibit 1 pg. 5, and Department Exhibit 2 pg. 2) However, even if the claimant had not called or appeared for the first interview, it is clear that she did call within the negative action period (before her benefits actually closed) and a second appointment date was scheduled for the interview.

August 27, 2009 was the second appointment date scheduled for the interview. The parties do not dispute that claimant appeared at the department office on August 27, 2009 to attend the interview. Claimant testified she had the completed Redetermination form with her to turn in at the interview. However, due to a power outage, the department was unable to see any clients and therefore could not conduct claimant's interview that day.

Claimant was given a new interview date after the power outage, but the parties disagree as to how the third interview date was scheduled for September 1, 2009. In the September 2, 2009 email to her supervisor, the caseworker indicates that she called the claimant and gave her another appointment for 8:30 am on September 1, 2009. (Department Exhibit 2 pg. 2) It is noted that the email does not indicate what day the worker called claimant to notify her of the September 1, 2009 interview appointment nor if the worker spoke to claimant or left a message. It does not appear any written notice was sent to the claimant for this interview date.

Claimant testified that she did not get advance notice of the September 1, 2009 appointment. Claimant testified that she called the caseworker the morning of September 1, 2009, and the worker told her she had to come in and complete the interview that same day. Claimant testified she needed advanced notice for the appointment because she has a disabled

son and needed time to make arrangements. Claimant testified that she was therefore unable to attend the interview on September 1, 2009.

The department representative present at the hearing argued that the worker was likely requiring the interview to be completed on September 1, 2009 because this is the date the benefits were scheduled to close. However, the circumstances that led to the missed second appointment date were beyond the control of either claimant or the department. Claimant should not be penalized by the power outage when the department agrees she was present for the interview that day. Claimant should have been given adequate notice to attend an interview on a new date. Given that the power outage occurred on Thursday August 27, 2009 and September 1, 2009 was the following Tuesday, claimant could not have been given adequate notice for the third interview date.

Based upon the foregoing facts and relevant law, it is found that the department has not shown appropriate notice was given to attend the September 1, 2009 interview. Even if claimant missed the first interview without contacting the department in advance, she did call before the benefits were closed and the interview was rescheduled. Claimant did appear for the August 27, 2009 interview and testified she had the completed redetermination form with her ready to turn in. However, due to a power outage, the local office was unable to see clients that day and claimant was sent back home. The department has not provided evidence to show when a call was made to claimant for the September 1, 2009 interview, there is no evidence showing claimant was sent written notice of this interview date, and appropriate notice could not have been sent as there was less than 10 calendar days between the second and third appointment dates.

Accordingly, the department claimant's FIP and MA benefits shall remain open and the department shall re-instate claimant's FAP benefits retroactive to the September 1, 2009 closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not provided sufficient proof that the client was given appropriate notice to attend the September 1, 2009 interview.

Accordingly, the department's FAP, FIP and MA determinations are REVERSED. Therefore, claimant's FIP and MA benefits shall remain open and the department shall re-instate claimant's FAP benefits retroactive to the September 1, 2009 closure, awarding benefits to claimant, if appropriate, in accordance with this decision.

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

Date Signed: November 5, 2009

Date Mailed: November 5, 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 mailing date of the rehearing decision.

CL/cv

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