

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: 2009-7400

Issue No: 3005

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 4, 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 March 4, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Food Assistance Program (FAP) benefits on December 1, 2008?

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 a FAP recipient when the department mailed him a review Assistance Application (DHS-1171) in October, 2008.

2. Claimant completed and signed the application on November 3, 2008, and returned it to the department. The application is stamped “Kent DHS Nov 05 2008 Drop Box” (Department’s Exhibits #1-16).

3. Claimant’s caseworker reviewed the application and found that the claimant had omitted his address and phone number. Caseworker then located an old application and left a message for the claimant to call her so he could be interviewed over the phone. Claimant never responded (Department’s Hearing Summary).

4. Claimant’s FAP benefit certification expired on November 30, 2008. Claimant contacted the caseworker after FAP benefits ended. Worker tried to explain what happened and asked the claimant if he wanted her to send him another application so he could re-apply. Claimant, according to the caseworker, became “very nasty in responses” and refused to take an application from her (Department’s Hearing Summary).

5. Claimant requested a hearing on December 5, 2008, using the DHS-176 sent to him by the department that lists as the reason for action taken on his case “Unable to interview on the phone”.

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).

Departmental policy, PAM 210, addressed redetermination procedures department's caseworkers must follow. Department periodically reevaluates cases to ensure that eligibility for program benefits continues. A complete redetermination is required at least every 12 months for FAP benefits. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is entered. If the client files a DHS-1171, Assistance Application or Filing Form, or DHS-2063B, Food Assistance Benefits Redetermination Filing Record, the redetermination process begins. If the client does not submit a redetermination requested, allow the benefit period to expire.

Claimant returned DHS-1171 on November 5, 2008, 25 days prior to expiration of his FAP benefits. Claimant's caseworker testified at the hearing that she had to interview the claimant by telephone prior to extending his FAP benefits. The caseworker further testified that she called the claimant on November 26, 2008, at a telephone number from a previous application and left him a message to contact her, and that he did not do so by 4:30 p.m., the time her work day ends. November 26, 2008, was a Wednesday, the day before Thanksgiving, and November 27, and 28, 2008 was state holidays and department's offices were closed. November 29 and 30, 2008 was Saturday and Sunday, and claimant's FAP benefits expired at midnight on November 30, 2008. Therefore, even though the department had claimant's review application since November 5, 2008, the only attempt made to contact him prior to expiration of his FAP benefits was on the last working day of November 26, 2008. This Administrative Law Judge notes that department's representatives from different county offices have testified in many hearings that the caseworkers have a recorded message on their telephones that all client's telephone calls will be returned within 24 hours. In claimant's case he was given at most 8 hours

if the caseworker called him first thing in the morning of November 26, 2008, immediately upon arriving at her work station.

Furthermore, departmental policy does specify what department must do if additional verification is needed, and states:

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

Send a negative action notice 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. PAM, Item 130, p. 4.

Department has not provided any evidence for this hearing to show that the claimant was sent a DHS-3503 asking him to contact the department for an interview. The presumption is therefore that no such form was sent and that the first attempt to contact the claimant was on November 26, 2008. Department was required to send a DHS-3503 to the claimant to give him the opportunity to provide any missing information and to call for a telephone interview.

Claimant’s caseworker testified that she did talk to the claimant after his FAP case was closed but he was verbally abusive to her and called her a racially degrading name, so she

terminated the contact. This Administrative Law Judge explained to the claimant that departmental staff is not required to allow clients to abuse them verbally or otherwise, and that she finds such behavior totally unacceptable. However, the issue at this hearing is not what the claimant did after his FAP benefits expired at the end of November 30, 2008, but whether such benefits were properly left to expire. Conclusion is they were not for the reasons stated above.

Once all of the issues pertaining to what occurred with claimant's FAP benefits were discussed, claimant's caseworker stated she is willing to re-open such benefits back to December 1, 2008, if the claimant agrees to complete the interview immediately following the hearing. Claimant stated he would do so. A Hearing Request Withdrawal was received by this Administrative Law Judge following the hearing, in which the claimant states he is now satisfied with action on his case as the case is being reopened.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant is no longer aggrieved by department's action, as evidenced by the Hearing Request Withdrawal he signed following the hearing.

Accordingly, claimant's hearing request is therefore DISMISSED, and it is SO ORDERED.

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

Date Signed: March 9, 2009

Date Mailed: March 10, 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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