

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: 2010-11927
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 28, 2010
Lenawee 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 January 28, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program, Food Assistance Program (FAP), and Medicaid (MA) benefits effective December 1, 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 was a FIP, FAP and MA recipient when her case came due for a review in November, 2009.
2. Claimant called on November 9, 2009 and stated she could not make the in person review appointment as she had recently had surgery. Claimant was told to mail in

redetermination forms and that in person interview would be waived to a phone interview.

(Department's Hearing Summary).

3. Department claims that the claimant never returned redetermination forms so her FIP, FAP and MA benefits closed at the end of November, 2009.

4. Claimant requested a hearing on November 30, 2009 saying she had surgery on October 29, 2009, on her ankle, she could not travel, and that her paperwork was mailed.

Claimant further stated that she assumed that the department received her paperwork until she received a letter it did not, and she tried to call her caseworker repeatedly and asked him to call her or re-mail the paperwork with no response.

CONCLUSIONS OF LAW

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

Department provided only the claimant's hearing request and a Hearing Summary for this hearing. This Administrative Law Judge was therefore left to figure out what occurred on claimant's case based on numerous questions she had to pose to the claimant and to the caseworker during the hearing. Claimant stated she had called her caseworker numerous times regarding her inability to attend the in person interview and then to tell him she had mailed her review materials to him, but he did not return her calls. The caseworker stated that the claimant had only called him on November 9, 2009. Claimant testified that she first called on October 19, 2009 to advise she could not attend the in person interview. The caseworker then responded that he indeed has this telephone call recorded on his call log, but he had no other documentation of what the claimant had said to him or what kind of message she left.

After listening to all of the hearing testimony, this Administrative Law Judge finds that the department's hearing presentation and almost non-existent documentation provided for the hearing is not sufficient to establish that departmental policy and procedures, namely that clients' calls must be returned and addressed, was followed. Furthermore, claimant's testimony that she indeed tried to contact her caseworker repeatedly and that she provided requested review materials department claims were never received is found to be credible. Claimant's caseworker

at first claimed he never received a telephone call from the claimant prior to November 9, 2009, but then located the October 19, 2009, call on his call log that he could not explain the content of. This establishes that some type of problems existed with documentation of claimant's calls and the possibility that omissions were made in handling claimant's case is considerable.

It is noted that the claimant testified that she re-applied for assistance on December 2, 2009 and received FAP benefits effective on this date. Claimant also received MA benefits effective December 1, 2009, but did not receive FIP benefits until January, 2010. Claimant is therefore only due FAP benefits for 1 day of December, 2009, that being December 1, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's FIP, FAP and MA benefits at the end of November, 2009.

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

1. Issue the claimant FAP benefits for 1 day, December 1, 2009.
2. Issue the claimant FIP benefits for the month of December, 2009.
3. Notify the claimant of these actions in writing.

SO ORDERED.

/s/

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

Date Signed: February 11, 2010

Date Mailed: February 22, 2010

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 receipt date of the rehearing decision.

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