

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.: 2010-12556
Issue No.: 1005
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 5, 2010
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 5, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly failed to process Claimant's redetermination for Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

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 FAP, MA and FIP recipient.
2. Claimant's FIP benefits were scheduled to end in 10/2009.

3. An in-person interview for redetermination of Claimant's FIP benefits was scheduled for 10/2/09.
4. Prior to 10/2/09, Claimant contacted her specialist and agreed that a telephone interview would be scheduled instead of an in-person interview.
5. Claimant submitted her redetermination and redetermination documents via fax on 10/2/09.
6. Claimant made multiple unsuccessful attempts to contact DHS via telephone on 10/2/09.
7. DHS failed to process Claimant's FIP benefit redetermination due to Claimant's failure to attend an in-person interview.
8. Claimant's FAP and MA benefits were scheduled for redetermination in 11/2009.
9. DHS concedes that they erred in failing to process the redetermination of FAP and MA benefits.
10. Claimant submitted a hearing request on 11/17/09 regarding closure of FIP, MA and FAP benefits.

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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

DHS must periodically redetermine eligibility for active benefits. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.* Failure by a client to complete the redetermination process results in case closure. *Id.*

DHS contends that Claimant's FIP benefits were properly not redetermined because Claimant failed to attend an in-person redetermination interview. For FIP redetermination interviews, BAM 210 directs DHS specialists as follows, "All individuals with a FIP or SDA Eligibility Determination Group (EDG) participation status of eligible or disqualified adult, who are physically able, must be interviewed and must sign and date the DHS-1010 or DHS-1171 in your presence."

In the present case, Claimant's specialist waived the in-person interview requirement. Claimant credibly testified that she contacted her specialist prior to the interview date and that the specialist agreed that a phone interview was sufficient. DHS was unable to rebut Claimant's testimony. DHS may be correct that their policy mandates an in-person interview; however, Claimant should not be faulted if DHS waives their own requirements.

Claimant also credibly testified that she attempted to call DHS at the time of her phone interview and that DHS failed to answer. Claimant further testified she made other calls to DHS on the date of her interview but to no avail. Again, Claimant's testimony was not rebutted. It must be found that DHS waived the in-person interview requirement for FIP benefit redetermination and that Claimant complied with all other requirements for FIP redetermination.

Claimant supported her testimony with a fax confirmation that showed she submitted her redetermination documents and verifications on 10/2/09. It is found that Claimant met all other FIP benefit redetermination requirements.

FAP and MA benefits do not require an in-person interview. BAM 210. DHS conceded that they failed to process Claimant's redetermination for FAP and MA benefits.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to provide Claimant an opportunity to be interviewed for redetermination of her FIP benefits. It is also found that DHS failed to process Claimant's FAP and MA benefits even though Claimant met all of the redetermination requirements. DHS is ordered to redetermine Claimant's FIP, MA and FAP benefits from the date of their closure.

DHS may request documents necessary for completion of the redetermination and Claimant shall be required to comply with such requests.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/12/2010

Date Mailed: 5/12/2010

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 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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