

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: 2010-1398
Issue No: 3019; 4001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 9, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 December 9, 2009.

ISSUES

Was the claimant's FAP case properly placed into closure?

Has the claimant's SDA application been processed in a timely manner?

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 in Saginaw County until August, 2009.
- (2) Claimant subsequently moved to Oakland County.
- (3) Claimant's FAP case closed on July 31, 2009, instead of being transferred to claimant's new county.

- (4) Claimant reapplied for FAP benefits on August 18, 2009.
- (5) Claimant was approved for FAP benefits; however, claimant only received \$79 for the month of August, due to her August benefits being prorated.
- (6) Claimant also applied for SDA on August 18, 2009.
- (7) The Department attempted to secure a DHS-4698 from MRS to verify claimant's eligibility for SDA.
- (8) This form was not returned to the Department until December 1, 2009.
- (9) Upon receipt of the denied form, the Department subsequently sent claimant's case to MRT in order to make a disability determination.
- (10) As of the date of the hearing, MRT had not yet made a determination as to claimant's disability.
- (11) On September 15, 2009, claimant requested a hearing, alleging that her FAP benefits should not have been terminated and that her SDA application was outside the standards of promptness.

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 Bridges Reference Manual (BRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or

department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

With regard to claimant's FAP case, the Department admitted that they were unsure of why claimant's FAP case was placed into closure by the Saginaw branch. The Department could offer no evidence that the case closure was correct, and stated that claimant's case probably should not have been closed and instead, should have been transferred directly to their branch. As the Department has submitted no evidence regarding this July 31, 2009 closure, the undersigned holds that the Department did not meet its burden of proof with regard to this closure. There is no evidence that this closure was correct, and claimant's FAP case should be supplemented back to the date of case closure.

With regard to the claimant's SDA application, the undersigned notes that there has been no negative action in the current case. The Department first waited to receive a copy of a certification from MRS, and when MRS declined to provide that certification, immediately sent the claimant's case to MRT for a full review. Claimant has asked for an order to the Department to process her application.

The standard of promptness for the processing of an SDA application is 60 days. BAM 115. The standard of promptness begins the date the Department receives an application with the minimum required information. BAM 115. To receive SDA, a person must be disabled. BEM 261. Disability can be shown in several ways, including through a certification from MRS on a DHS-4698, or a determination from MRT. The Department, as of the time of the hearing, had sent the claimant's medical file to MRT, and was awaiting the return of several medical documents in order to complete the MRT process.

While claimant's application had been pending for several months by the time of the hearing, the Administrative Law Judge notes that at the time of the hearing request, even if he assumed that the standard of promptness began to toll on the date of the application, August 18, 2009, the standard of promptness had not yet passed.

However, even if the standard of promptness had passed by the date of application, BAM 115 also states that MRT can extend the standard by another 60 days. Therefore, the Department is still within its timeliness standards and the undersigned will not order the Department to process the application.

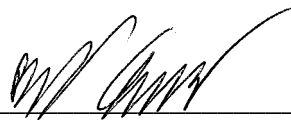
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that there has been no failure in the processing of claimant's SDA application.

The closure of the claimant's FAP case on July 31, 2009, was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to issue supplemental FAP benefits for the period of August 1, 2009 to August 18, 2009, using the eligibility factors the Department used to determine eligibility in the month of August, 2009.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 02/05/10

Date Mailed: 02/17/10

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.

RJC/dj

cc:

