

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.: 2010-1422
Issue No.: 3008/5000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
December 17, 2009
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan on Thursday, December 17, 2009. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the Department properly denied the Claimant's FAP application based upon a failure to return requested verifications?
2. Whether good cause exists for the Claimant's failure to appeal the April 22, 2009 State Emergency Relief ("SER") application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On April 13, 2009, the Claimant submitted an application for public assistance seeking FAP and SER benefits.
2. On this date, April 13th, the Department provided a Verification Checklist to the Claimant requesting documentation be submitted by April 27, 2009. (Exhibit 1)
3. On April 16, 2009, the Claimant submitted some requested verifications. (Exhibit 3)
4. On April 22, 2009, the Department sent the Claimant notification of the denial of the SER application. (Exhibit 2)
5. The Claimant did not receive notification regarding the status of the FAP application.
6. On September 30, 2009, the Department received the Claimant's written request for hearing.

CONCLUSIONS OF LAW

The State Emergency Relief ("SER") program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.* and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Departmental policies are found in the State Emergency Relief Manual ("ERM").

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903 A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1)

A claimant shall be provided 90 days from the negative action notice. MAC R 400.902 - .904; PAM 600, p. 4

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105 Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. PAM 130 When documentation is not available, or clarification is needed, collateral contact may be necessary. PAM 130 The client must obtain the required verification, however, the Department must assist if needed and/or requested. PAM 105; PAM 130 If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. PAM 130 If no evidence is available, the Department should use its best judgment. PAM 130 Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended. PAM 130 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. PAM 130

In the record presented, the Claimant submitted an application for public assistance seeking FAP and SER benefits. The SER application was denied 9 days later. The Claimant received notification of the SER denial but failed to timely appeal it thus the determination is final. Regarding the FAP application, as of the date of hearing, the Claimant has not received any information (approval or denial) nor has she received any benefits. The Department was unable to produce any documentation to establish that the Claimant's FAP application was properly processed. Under these facts, the Department's failure to process the Claimant's FAP application is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Claimant did not file a timely hearing request to protest the Department's SER denial notice. It is further found that the Department's failure to process the Claimant's FAP application is not upheld.

Accordingly, it is ORDERED:

1. The Department's SER denial is AFFIRMED as the request for hearing was untimely.
2. The Department's failure to process the Claimant's FAP application is not upheld.
3. The Department shall process the Claimant's April 13, 2009 FAP application in accordance with Department policy within 2 weeks from the date this decision.
4. The Department shall notify, in writing, the Claimant and her authorized representative of the determination in accordance with department policy.

5. The Department shall supplement for lost benefits the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/30/09

Date Mailed: 12/30/09

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.

CMM/jlg

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