

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.: 2010-23800
Issue No.: 3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 31, 2010
Wayne County DHS (57)

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 March 31, 2010. The Claimant appeared and testified; [REDACTED] also appeared and testified on Claimant's behalf. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS correctly closed Claimant's FAP benefits based on Claimant's failure to submit a Redetermination (DHS-1010)?

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 recipient.
2. Claimant's FAP was schedule for a telephone interview in 11/2009

3. Claimant failed to be available for the telephone interview.
4. DHS schedule Claimant for a face-face interview on 12/3/09.
5. On 12/3/09, Claimant attended an interview with a DHS representative.
6. Claimant submitted previously requested verifications at the face-face interview.
7. Claimant submitted a Hearing Request on 1/7/10 regarding closure of her FAP.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

Claimant’s FAP was scheduled for redetermination with benefits scheduled to end on 12/31/09. BAM 210 reads, “The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, or DHS-2063B, Food Assistance Benefits Redetermination Filing Record.”

A face-face interview was schedule with Claimant for 12/3/09. Claimant testified that she attended the appointment, was interviewed by her specialist and submitted needed documents at the interview. Claimant’s specialist did not recall interviewing Claimant and further contended that Claimant never submitted a Redetermination (DHS-1010), a mandatory document for redetermination. It was not disputed that DHS had Claimant’s verifications. It was only disputed whether Claimant submitted a DHS-1010.

Claimant's testimony was imperfect. Claimant's hearing request indicated that an interview occurred on 12/1/09 while her testimony was that the interview occurred on 12/3/09. DHS documentation indicated the 12/3/09 was the date that the interview was scheduled.

DHS testimony was also imperfect. Claimant's specialist testified that she believed she was out on a medical leave around the time of the interview but was somewhat uncertain. Also, the verifications received by DHS lacked the DHS office date stamp. Generally, DHS date-stamps documents that are received in the mail or via drop box, but not those received in-person. The lack of date stamp tends to show that Claimant gave the documents personally to a DHS representative. The likeliest time Claimant would have done so would have been during an interview for redetermination. It is found that Claimant attended an interview for redetermination of her FAP benefits.

The above finding does not necessarily mean that Claimant submitted a DHS-1010 at the 12/3/09 interview. If the testimony of Claimant's specialist is correct and she was absent from the 12/3/09 interview, then DHS lacked testimony of the interviewing specialist that Claimant failed to submit a DHS-1010 during the interview. If Claimant's specialist testimony is incorrect, then the specialist's memory is not a reliable source as to whether Claimant submitted the DHS-1010. In either event, it should be found that Claimant submitted a DHS-1010.

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 redetermine Claimant's FAP benefits. It is ordered that DHS shall begin the process to redetermine Claimant's FAP benefits effective 1/1/10.

DHS shall request any needed verifications and documents and provide deadlines in accordance with policy. Claimant is required to meet deadlines in returning documents as required by DHS policy.



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

Date Signed: 4/8/2010

Date Mailed: 4/8/2010

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.

CG/jlg

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