

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201024954
Issue No.: 6000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 8, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

ORDER OF DISMISSAL

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 held on July 8, 2010. The claimant appeared and testified. [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance Program benefits ("FAP") benefits and Medical Assistance Benefits ("MA") for failing to complete the redetermination?

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 active FAP and MA recipient.
2. The Claimant's FAP and MA cases were closed on September 30, 2009 because the claimant failed to return the DHS Form 1010 sent to her for review and completion.
3. The claimant received the form but did not return it due to personal stresses in her life regarding her mother and daughter.
4. The claimant attempted to reach her worker but could not do so.
5. The Department closed the claimant's MA and FAP cases because it did not receive the DHS 1010 form which it sent to the Claimant.

6. A Notice of Case Action was sent on September 30, 2009 notifying the claimant that the claimant's case was scheduled to close.
7. The Department received Claimant's hearing request on March 11, 2010.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

Under Bridges Administrative Manual Item 600, clients have the right to contest any negative agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. Claimant's have 90 days from the date of the action to request a hearing.

However, claimant's hearing request specifically requested a hearing based upon the closure of the Claimant's FAP and MAP cases as a result a Notice of Case Action dated September 30, 2009. Claimant's hearing request dated February 22, 2010 and received by the Department March 11, 2010 was made over 90 days after the date of the Department's decision and action.

Due to the fact that the Claimant's request for hearing was made well after the 90 period for filing a hearing request, the request was untimely and must be dismissed. There is no case for the Administrative Law Judge to consider because the Claimant's hearing request is untimely. Claimant's request for hearing must be dismissed for lack of jurisdiction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that there is no jurisdiction to hear a case as the Claimant's hearing request was untimely and must be dismissed.

Accordingly, this case is, hereby, DISMISSED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/08/2010

Date Mailed: 07/08/2010

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 of the rehearing decision.

LMF/jlg

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