

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. 201050078
Issue No. 6000
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 22, 2010
Office: Wayne County DHS (17)

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 held on September 22, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], appeared and testified.

ISSUE

Whether Claimant is entitled to an administrative hearing for an issue previously decided by an administrative hearing.

FINDINGS OF FACT

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

1. DHS alleged that Claimant committed an Intentional program Violation (IPV) concerning fraud associated with Child and Development Care (CDC) benefits.
2. An administrative hearing was held on 9/2/09 concerning the IPV allegations against Claimant.
3. Claimant failed to attend the 9/2/09 administrative hearing.
4. On 4/6/10, an administrative decision found that Claimant had committed an IPV and ordered restitution of \$5016 in CDC benefits.

5. Claimant requested a hearing on 8/13/10 disputing the same issues resolved by the 9/2/09 administrative hearing.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

A rehearing is a full hearing which is granted when the original hearing record is inadequate for purposes of judicial review or there is newly discovered evidence that could affect the outcome of the original hearing decision. BAM 600 at 33. A reconsideration is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is not necessary, but one of the parties believes the ALJ failed to accurately address all the issues. The State Office of Administrative Hearings and Rules (SOAHR) grants a rehearing or reconsideration request if the information in the request justifies it and there is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness. *Id.*

Clients may also appeal unfavorable administrative decisions to the appropriate county level Circuit Court. In most cases, the client has 30 days after the decision is received to file an appeal. *Id.* at 29.

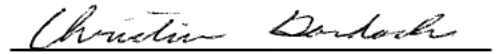
In the present case, SOAHR mailed the administrative decision to Claimant on 4/6/10. Rather than requesting a reconsideration or rehearing or appealing to Circuit Court, Claimant requested a hearing disputing the same issues that were resolved in the administrative decision. Claimant's hearing request following the administrative decision was inappropriate as the issue was already resolved through administrative decision.

Claimant indicated that she failed to receive a notice for the 9/2/09 hearing and that had she known about the hearing, she would have attended the hearing and put forth evidence indicating why she did not commit an intentional program violation. Because an administrative hearing was held, Claimant's argument is appropriate for an appeal to circuit court or for a request for rehearing or reconsideration to SOAHR. Claimant can fax her rehearing/reconsideration request to SOAHR; the appropriate fax number is 313-456-1619.

DECISION AND ORDER

Claimant's hearing request is DISMISSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant requested a hearing for an issue previously resolved by administrative hearing.

/s/



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

Date Signed: September 30, 2010

Date Mailed: September 30, 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 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.

CG/hw

cc:

