

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: 2010-698
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 29, 2009
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on October 29, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Food Assistance Program (FAP) benefits in July, 2009?

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 when her case came due for review.
2. An interview appointment was scheduled for July 2, 2009 at 2:00 PM. Claimant reported for this appointment, but her caseworker was absent from the office and no one else was

available to see her, so she was sent away and her appointment rescheduled for July 13, 2009, according to the Bridges computer system printout provided for this hearing.

3. Claimant was a no show for the July 13, 2009, appointment and her FAP benefits ended. Claimant requested a hearing on September 24, 2009.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

FAP redetermination policy requires that an interview be scheduled towards the end of FAP certification period. Claimant had such interview scheduled for July 2, 2009, but could not be seen when she showed up for it, through no fault of her own. Bridges printout, the only documentation provided for the hearing by the department, shows an appointment for July 2, 2009, and also shows a rescheduled appointment for July 13, 2009, for which the claimant was allegedly a no show per the system.

Claimant testified that she never received a notice of the July 13, 2009 interview. Department is relying on the Bridges system to state that she was indeed sent a notice of this interview. This Administrative Law Judge will address the issue assuming that the Bridges system did sent the notice of the July 13, 2009, interview to the claimant and that she was a no show for this appointment. Even if this is true, departmental policy states that when a client does

not show up for the initial FAP redetermination interview, Bridges system will sent out a DHS-254, Notice of Missed Interview, form that tells the client that he/she now must contact their worker by the end of the certification period to reschedule the interview or her benefits will end. BAM 210, p. 3. Bridges printout for the claimant does not indicate that this notice was sent. The Administrative Law Judge, while not a computer expert or familiar with the Bridges system, will venture to guess this is because the system was perhaps assuming that the claimant had already been given two opportunities for the FAP interview. This would not be true, as claimant attended July 2, 2009, only to be turned away as her worker was absent from the office and no one else was available to see her. Therefore, July 2, 2009, missed interview is not claimant's fault and should not be counted as the first instance of client's failure to attend a scheduled review appointment. Another possibility is that the system erred in not sending such a DHS-254 due to some type of a computer glitch, in which case claimant's testimony that she never received a notice of July 13, 2009, appointment could also possibly be true. In any of these scenarios, the end result is that the claimant's FAP benefits should not have terminated.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's FAP benefits in July, 2009.

Accordingly, department's action is REVERSED. Department shall:

1. Schedule an appointment for the claimant to give her the opportunity to submit FAP application.
2. Determine claimant's FAP eligibility back to July, 2009 termination.
3. If the claimant is found to be eligible for FAP, issue the claimant any such retroactive benefits she was entitled to receive.

4. Notify the claimant in writing of department's determination.

SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 9, 2009

Date Mailed: November 10, 2009

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.

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