

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.: 2010-10591
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
January 13, 2010
Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on January 13, 2010. The claimant appeared and testified with the assistance of a translator.

ISSUE

Did the Department of Human Services (DHS or department) properly terminate claimant's Food Assistance Program (FAP) benefits?

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 recipient of ongoing FAP benefits in a group of five which included claimant, her husband, and their three children.

- 2) On July 17, 2009, the department sent claimant a DHS-1010 redetermination of eligibility form which scheduled an in-person FAP redetermination interview for claimant on August 10, 2009. (Department Exhibit #1.)
- 3) On August 6, 2009, claimant learned that her father was gravely ill in [REDACTED].
- 4) On or about August 6, 2009, claimant's husband (and fellow FAP group member) telephoned the assigned DHS worker at the phone number listed on the DHS-1010 (Department Exhibit #1) in order to reschedule the redetermination appointment. The assigned worker told claimant's husband that claimant must call to reschedule the appointment. The worker would not reschedule the appointment for claimant's husband.
- 5) On August 7, 2009, claimant, with the assistance of a friend/translator, telephoned the assigned DHS worker at the assigned worker's telephone number listed on the DHS-1010 to explain her situation and reschedule the redetermination interview. A voicemail message was left on the assigned DHS worker's voicemail.
- 6) The department's worker did not return claimant's telephone call.
- 7) On [REDACTED], claimant's father died. (Claimant Exhibit A.)
- 8) Claimant left for [REDACTED] on August 9, 2009. (Claimant Exhibit B.)
- 9) On August 9, 2009, and August 10, 2009, claimant's cousin telephoned claimant's assigned DHS worker and left voicemail messages explaining the situation and asking that the redetermination interview be rescheduled.
- 10) On August 31, 2009, claimant's FAP case closed.
- 11) Claimant returned from [REDACTED] on September 5, 2009. (Claimant Exhibit B.)

- 12) Thereafter, claimant telephoned her assigned DHS worker and was told by the worker that her FAP case had closed and that claimant must reapply.
- 13) On September 29, 2009, claimant filed a hearing request to protest the department's closure of her FAP case.
- 14) At the hearing, the department reported that claimant's assigned DHS worker was no longer available and that departmental records would not reflect telephone calls or telephone voicemail messages made to that worker.

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).

Relevant departmental policy in this matter is as follows:

The Department of Human services must periodically redetermine an individual's eligibility for TOA (types of assistance). BAM Item 210, Page 1.

FAP Only

Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM Item 210, Page 2.

FAP Only

An interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group

is ineligible ... The individual interviewed may be the client, the client's spouse, any other responsible member of the group or client's authorized representative. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview.

You must conduct a telephone interview at redetermination before determining ongoing eligibility ...

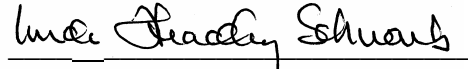
Note: when conducting a telephone interview, ask the caller a question only the grantee could answer (such as last four digits of their social security number, date of birth, etc.) to insure the identity of the caller. BAM Item 210, Page 3.

In this matter, the department has failed to sustain its burden of proof that it followed applicable law, regulation, and policy. Per BAM Item 210, Page 3, when claimant's spouse spoke to the DHS worker over the telephone on August 6, 2009, the department should have agreed to allow claimant's spouse to reschedule the redetermination interview. In fact, the department should have agreed to allow claimant's spouse to participate in the redetermination interview, either in person or via the telephone. 7 CFR 273.14. Accordingly, the department's action in this matter must be reversed. The department is ordered to initiate reconsideration of claimant's eligibility for FAP benefits effective September 1, 2009. The department is to provide claimant with written notification of its determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services improperly termination claimant's Food Assistance Program benefits. Accordingly, the department's action in this matter must be reversed. The department is ordered to initiate consideration of claimant's eligibility for Food

Assistance Program benefits effective September 1, 2009. The department shall provide claimant with written notification of its determination.


Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 22, 2010

Date Mailed: January 25, 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.

LSS/pf

cc:

