

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: 2010-12956
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 10, 2010
Genesee 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 February 10, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly determine that the claimant received an overissuance of 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. Department's Hearing Summary indicates that the claimant received an overissuance of FAP benefits.
2. Claimant requested a hearing on November 24, 2009.

3. Department's representative at the hearing was unable to present department's case, as claimant's caseworker was not at work and the case file could not be located.

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).

Department is unable to present the case at the hearing, as claimant's caseworker is not present in the office and her case cannot be located. Claimant is contesting department's claim that she was overissued FAP benefits. Claimant also testified that she received a letter in January, 2010 from the department saying she owes no FAP benefits, and the department owes her FAP benefits.

Administrative Law Judge is unable to make any type of determination of what occurred on claimant's case due to lack of information on part of the department. It is noted that department's representative at the hearing is not at fault for lack of information/documentation, as he has not been in charge of claimant's case and has not taken any action on her case that is at issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department failed to provide hearing presentation to determine what actions and why were taken on claimant's FAP case.

Accordingly, department's determination that the claimant was overissued FAP benefits cannot be upheld at this time. Department shall:

1. Schedule an appointment with the claimant for an in person interview by mailing her an appointment letter within 10 days of receipt of this order.
2. Review claimant's FAP case with her along with the letter claimant testified she received in January, 2010 telling her no FAP overissuance occurred.
3. Make a determination as to what occurred on claimant's FAP case after completion of review.
4. Notify the claimant in writing of FAP determination. Claimant has the right to request another hearing if she disagrees with such determination.

SO ORDERED.

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

Date Signed: April 13, 2010

Date Mailed: April 14, 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.

cc:

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