

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2010-23299
Issue No.: 2012
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 3, 2010
Oakland County DHS (3)

ADMINISTRATIVE LAW JUDGE: Michael Bennane

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 June 3, 2010. The Claimant was represented by his attorney, [REDACTED].

ISSUE

Whether the Department has properly processed the claimant's Medical Assistance (MA) and Food Assistance (FAP) applications.

FINDINGS OF FACT

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

1. On July 29, 2009, the Claimant filed an application for MA and FAP.
2. On March 15, 2010, the claimant was represented by his attorney at a hearing requested by the claimant due to the department's inaction. The department was ordered to "begin the process of determining the claimant's eligibility for FAP and MA retroactive to the original application date.
3. On May 14, 2010, the claimant's attorney filed a request for a hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 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).

FIP, RAP, CDC, SDA, MA and AMP Only

Approve or deny the application and mail the client a notice within 45 days. If the client applied for CDC, the CDC provider must also be sent a notice within 45 days. (PAM 115, p. 11)

The claimant's attorney asked for a directed verdict on the basis of the inaction by the department. This ALJ told the attorney during the hearing that that remedy was not available in this forum.

There is no question that the department was in violation of its standard's of promptness. However, the only remedy available in such a case is the ordering of the department to perform its duty in as timely a fashion as possible.

The department states in its "Hearing Summary" that the FAP was denied for excess income and that the claimant's MA was begun February 5, 2010, with retroactivity to the original filing date.

This ALJ finds that the department was correct in denying the claimant's FAP for excess income.

The undersigned further finds that although the department violated its own standard of promptness other remedies are not available.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES and ORDERS the department to reregister the claimant's July 29, 2009, MA application if the claimant's MA was not in fact opened on February 5, 2010, with retroactivity to the original application date.



Michael Bennane
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/06/2010

Date Mailed: 07/06/2010

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.

MJB/jlg

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