

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg No: 201023768

Issue No: 3022

Case No: ██████████

Load No: ██████████

Hearing Date:

June 24, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted on June 24, 2010 from Detroit, Michigan. The Claimant appeared and testified. ██████████, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance Program ("FAP") benefits effective 1/1/10?

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient.

2. On 11/16/10, the Department mailed Claimant a redetermination application along with a notice of telephone interview scheduled for 12/3/09.
3. On 12/3/09, the Department mailed Claimant Notice of Missed Interview with instructions to reschedule the interview before 12/31/09.
4. Claimant testified that he was available and waiting for the phone interview on the date of the scheduled appointment.
5. Claimant testified that he received the notice of the missed phone interview and appeared at the Department to drop off the requested information. Claimant testified that he spoke with his caseworker at that time, who looked at his information and indicated that since nothing had changed, his benefits would continue as before.
6. The case worker was not available at the hearing to testify.
7. Claimant testified that he made numerous phone calls to the Department to discuss his case and the voice mail box was full.
8. The Department mailed Claimant notice that his benefits were closing for failure to complete the redetermination effective 1/1/10.
9. The Claimant filed a request for a hearing on January 20, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.*

and MAC R 400.3001-3015. The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

Benefits will stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. If the client does not complete the redetermination process, the benefit period is allowed to expire. The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. BAM 210, p. 2. The Department is required to conduct an in-person interview at redetermination before determining ongoing eligibility. BAM 210, p. 4.

Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. This allows time to process the redetermination before the end of the redetermination month. The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. BAM 210, p. 12. In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the

15th of the redetermination month. BAM 210, p. 9. A telephone interview is not necessary as a condition of eligibility for AMP benefits. BAM 210, p. 4.

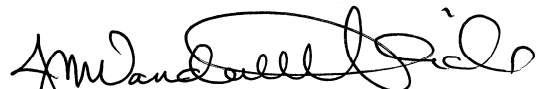
The Claimant testified that his only issue was regarding FAP benefits. In the present case, Claimant testified credibly that he responded to the Department before the required time period with his redetermination information. The undersigned acknowledges that it is possible Claimant submitted his information after the time period specified in the 12/3/09 notice; however, there was no one with personal knowledge of the case from the Department present to testify. Therefore, the Administrative Law Judge based upon the foregoing facts and relevant law, finds that the Claimant responded timely and the Department's determination to close FAP benefits is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP and AMP benefits effective 1/1/10.

Accordingly it is Ordered:

1. The Department's 1/1/10 FAP closure is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, 1/1/10, delete any related negative action and supplement the Claimant for any lost benefits he was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/30/2010

Date Mailed: 06/30/2010

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 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.

JV/cjp

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