

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.: 201024237
Issue No.: 3022
Case No.: ██████████
Load No: ██████████
Hearing Date:
April 21, 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 received by the Department on February 26, 2010. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 21, 2010. The Claimant appeared and testified. Claimant was represented by ██████████ ██████████ of ██████████. ██████████ ES and ██████████ FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance Program ("FAP") benefits due to a failure to appear for a telephone conference?

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient up for review.

2. A redetermination packet was mailed to Claimant on 12/15/09 with an appointment date of 1/5/10. (Exhibit 1, p. 2).
3. The appointment on 1/5/10 was listed as a telephone hearing.
4. Claimant testified that she appeared at the Department on the date of the appointment, 1/5/10, with the redetermination packet in hand and questions about how to complete the information.
5. The Department indicated that Claimant's case worker would be at lunch at the scheduled time of her appointment and requested that Claimant leave her redetermination packet in the document drop box. Claimant did so.
6. The Department determined that Claimant's redetermination packet was incomplete.
7. On 1/5/10, the Department sent a notice of missed interview. (Exhibit 1, p. 6).
8. Claimant attempted to contact the Department by telephone in order to reschedule her appointment, but never received a return phone call.
9. On February 1, 2010, the case was closed due to missing information in the redetermination packet.
10. On February, 26, 2010, the Department received the Claimant's Request for Hearing protesting the reduction of the FAP benefits.

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. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. BAM 130, p. 1. Clients are allowed generally allow 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 10.

In the record presented, Claimant testified credibly that she attempted to appear for the scheduled redetermination interview. While the appointment notice indicated that it was to be a telephone interview, Claimant appeared at the Department. Claimant’s in-person appearance was reasonable given that she had documents that were needed by the Department and also questions about completing the redetermination packet. It is apparent that the Department did not even notify the caseworker that the Claimant had appeared and Claimant testified credibly that she attempted to contact her caseworker following the missed appointment letter without success.


The Department received at least partial information from the Claimant before the expiration of the benefit period. A simple follow up phone call before the end of the FAP period would have resolved the issues and allowed the Claimant's benefits to continue. Based on the foregoing facts and relevant law, this Administrative Law Judge finds the Claimant timely submitted verifications for redetermination. Accordingly, based on the applicable law and evidence presented, the Department's decision to close Claimant's FAP benefits effective 2/1/10 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 case effective 2/1/10.

Accordingly it is Ordered:

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

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

Date Signed: May 11, 2010

Date Mailed: May 11, 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/hw

cc:

