

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 30928
Issue No: 3000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 12, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

ORDER OF DISMISSAL

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 May 12, 2010 in Detroit, Michigan. The Claimant appeared and testified on her own behalf. Bettie Dunbar, ES and Eileen Cott, FIM appeared on behalf of the Department.

ISSUE

Is the Claimant entitled to a hearing regarding failing to receive food assistance benefits that the Department authorized and issued?

Does the Administrative Law Judge have jurisdiction to hear the Claimant's hearing request?

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 filed a request for hearing on April 16, 2010 to review why she was not paid a food stamp supplement that she claims is owed to her in the amount of \$1,498. Claimant's Exhibit 1
2. The time period that the claimant alleged she did not receive food stamps began in March 2008 through November 2008.
3. The Claimant's hearing request regarding the non receipt of her food stamps was not filed within 90 days of the claimant's failure to receive food stamps.
4. There was no negative action on which claimant could request a hearing as the Department indicated that it issued the claimant food assistance benefits for the period in question. Exhibits 2 and Exhibit 3

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 (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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Table (RFT).

Under Bridges Administrative Manual Item 600, clients have the right to a hearing if requested within 90 days of the written notice of case action. BAM 600, page 4. In this case, the claimant became aware that she did not get the food stamps as early as March 2008 but did not file a request for a hearing regarding food stamps until April 16, 2010. Because the Claimant did not file her hearing request timely, the Administrative Law Judge has no jurisdiction to hear this matter. In this case, the Department did not take any negative action as it

believed that it paid FAP benefits all along. Thus, during the almost 9 month period when the claimant alleges she did not receive FAP benefits and that she had a card to which they could be issued, the Claimant did not request a hearing.

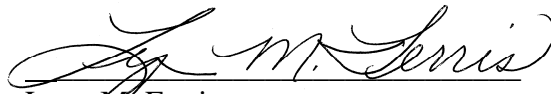
Unfortunately, the Administrative Law Judge did not discover that there was no jurisdiction to hear this matter until after the hearing had ended and the file was further reviewed. It is noted that the Claimant did request a hearing for her medical assistance and the FAP issue may have been included with that request; however, that request is not included in this hearing record.

As the Claimant did not file the Request for Hearing until April 16, 2010, well after the 90 day filing deadline, the Claimant's request for hearing must be dismissed for lack of jurisdiction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that there is no jurisdiction to hear the case.

Accordingly, this case is, hereby, DISMISSED.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/25/10

Date Mailed: 05/26/10

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

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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.

LMF/dj

cc:

