

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: 2010-3867  
Issue No: 3008  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
November 25, 2009  
Marquette 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 November 25, 2009. Claimant personally appeared and testified along with her mother [REDACTED]

ISSUE

Did the department properly terminate claimant's Food Assistance Program (FAP) and Adult Medical Program (AMP) benefits effective November 1, 2009?

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 was a FAP and AMP recipient when she submitted a Semi-Annual Contact Report to the department on September 22, 2009, stating she had no income. (Department's Exhibits 2 and 3).

2. As the claimant was previously receiving employment income and such income was being budgeted on her FAP and AMP case, department mailed her a Notice of Case Action stating that if she indeed was no longer employed she is to provide a statement showing last day worked and final pay. This information had to be provided by October 5, 2009, to prevent case closure. (Department's Exhibit 4).

3. Department did not receive requested verification and claimant's case was placed into negative action to close effective November 1, 2009. (Department's Exhibit 5).

4. Claimant requested a hearing on October 14, 2009, asking that her benefits continue until her hearing is decided. Department however terminated claimant's AMP and FAP benefits effective November 1, 2009.

#### 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).

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 (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

First issue in this hearing is whether the department was correct in terminating claimant's FAP and AMP benefits even though she filed a hearing request prior to the effective date of benefit closure. Departmental policy defines a timely hearing request as a request received anywhere in the department within the pended negative action period. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, department must delete the negative action. For FAP only, these actions apply only if the benefit period has not expired. BAM 600.

Claimant did file a timely hearing request. Furthermore, documentation provided by the department shows that claimant's FAP benefit period did not expire until March 31, 2010. Department therefore should have deleted negative action on claimant's case and continued her FAP and AMP benefits until the hearing decision is made.

Second issue is the claimant's ability to understand written and verbal instructions. Claimant testified that she did not remember getting the correspondence from the department telling her that she must provide verification of stopped earned income. Claimant's case was also discussed with her by departmental manager present at the hearing prior to the case closure, in a telephone hearing conference of October 22, 2009. Manager indicates that he told the claimant at that time that she needed to obtain a statement from her employer regarding her stopped income. Claimant states she may not have understood what she was told by the manager. Claimant testified that she does have dyslexia, and her mother also indicates that she has problems understanding things. Following the hearing departmental manager stated he will arrange for claimant's mother to be added to claimant's case as her authorized representative so she can assist the claimant with departmental correspondence and needed actions in the future.

Third issue is whether the department should have terminated claimant's AMP and FAP benefits due to her failure to verify ending employment income. Claimant was income eligible for such benefits with employment income, and therefore would have been income eligible for such benefits without the income also.

In conclusion, department should have continued claimant's AMP and FAP benefits pending the outcome of this hearing. While departmental policy does require that department verify income including stopped income, it appears that the claimant indeed has problems understanding written and verbal instructions. It is unknown if her caseworker was aware of claimant's problems, as he/she was not available for the hearing. Departmental policy does require that clients that are illiterate or disabled be assisted in completing forms or gathering verifications. BAM 105. Lastly, as already stated, claimant was eligible for AMP and FAP even with earned income, however departmental policy does require that stopped income be verified. BAM 105.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly terminated claimant's AMP and FAP benefits effective November 1, 2009, due to claimant's timely hearing request receipt.

Accordingly, department's action is REVERSED. Department shall:

1. Reinstate claimant's AMP and FAP benefits retroactive to November 1, 2009.
2. Review claimant's case and past encounters with her caseworker to determine if the claimant should have been offered additional assistance in completing forms and obtaining requested verifications due to possible learning disability.

3. Determine if continued AMP and FAP benefits are appropriate based on instructions in #2 above. If yes, assist the claimant in obtaining verification of stopped income, possibly by contacting the employer directly to get this information.

4. If the claimant is found not to have needed additional assistance in obtaining requested information based on instructions in #2 above, terminate claimant's AMP and FAP benefits due to her failure to provide verification of stopped income in October, 2009.

SO ORDERED.

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

Date Signed: January 4, 2010

Date Mailed: February 3, 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 mailing 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.

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