

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: 201107568
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 7, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on January 7, 2010.

ISSUE

Was the claimant's FAP application properly denied for a failure to attend an in-person interview?

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 an FAP recipient in Wayne County.
- (2) Claimant was up for a FAP redetermination in September, 2009.
- (3) Claimant is mentally disabled and part of a SDV FAP group.

- (4) On August 19, 2009, claimant was sent DHS-1010, Redetermination Notice, which scheduled an in-person interview for September 14, 2009.
- (5) Claimant received this notice.
- (6) Claimant broke her leg the day before, and subsequently did not attend the interview.
- (7) On September 14, 2009, claimant was sent a DHS-254, Notice of Missed Interview, which told her she had the responsibility to reschedule her interview before September 30, 2009.
- (8) Claimant did not do this.
- (9) Claimant's FAP case closed on September 30, 2009.
- (10) Claimant reapplied and was approved for FAP on October 16, 2009.
- (11) On November 10, 2009, claimant requested a hearing, stating that she could not have made the in-person interview, and also, that she had not received her FAP allotment for the month of September.

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

A DHS-1171, Assistance Application must be completed when eligibility is determined. BAM 210. An application is considered incomplete until it contains enough information to

determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. In-person interviews are required to maintain FAP eligibility. However, in-person interviews are to be waived when the eligibility group consists entirely of SDV members with no earned income. BAM 115.

In the current case, the Department contends that claimant did not attend her required in-person interview, and as such, did not complete her redetermination. While the undersigned understands why the Department took the action they did, the Department's position is ultimately not consistent with policy.

BAM 115 states that an in-person interview is to be waived when the group consists entirely of SDV members with no earned income. This was the case in the current situation. BAM 115 does not state that this interview requirement is to be waived only if the claimant requests that the interview be waived. As claimant's group consisted entirely of a SDV group, and as the Department testified they were aware of this fact, the undersigned holds that the Department erred in scheduling claimant for an in-person interview in the first place, instead of a telephone interview or home visit. Claimant was not required to attend an in-person interview, and, given the mental impressions claimant gave during the hearing, such an in-person interview would probably not have been beneficial to anybody involved.

Furthermore, claimant credibly testified that she had a medical emergency on the day in question and could not attend the in-person interview. While a normal claimant should probably have rescheduled the interview, claimant's severe mental impairments would limit claimant from reliably doing this, and the undersigned will not hold claimant to that standard.

Regardless of whether or not claimant should have rescheduled herself, the fact remains that claimant was not required by policy to attend an in-person interview.

Claimant also alleged that she did not receive FAP benefits during the month of September. The Department provided a copy of claimant's EBT transaction records. These records show that the correct amount of FAP benefits were deposited onto claimant's card and used, presumably by claimant herself. Thus, the undersigned finds this allegation to be without merit.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to place claimant's FAP case into closure was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to reopen claimant's FAP case retroactive to the date of negative action, September 30, 2009. Benefits are to be supplemented to that date, using the amount the Department allotted for the month of October, 2009.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/05/10

Date Mailed: 03/11/10

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 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.

RJC/dj

cc:

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