

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: 200931088  
Issue No: 3008  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 20, 2009  
Oceana 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 August 20, 2009.

ISSUE

Was the claimant's FAP case properly placed into closure for 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 a FAP recipient in Oceana County.
- (2) On May 20, 2009, claimant was mailed an appointment notice for an in-person interview on June 1, 2009.

- (3) Claimant did not attend this interview.
- (4) Claimant was sent a notice of missed interview on June 1, 2009, notifying claimant that he had until June 30, 2009 to reschedule his interview.
- (5) Claimant attempted to call DHS to reschedule the interview, but was unable to contact his caseworker.
- (6) The DHS telephone system was overloaded during this time period because of the Bridges changeover.
- (7) On June 30, 2009, claimant's FAP application was denied for a failure to attend an in-person interview.
- (8) On July 29, 2009, claimant requested a hearing, arguing that he had tried to contact his caseworker.

#### 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. An application that remains incomplete may be denied. BAM

130. In-person interviews are required to continue FAP eligibility. The claimant has the burden of responsibility to reschedule a missed interview before the date of case closure. BAM 210.

In the current case, the Department contends that claimant missed his interview and did not reschedule before the negative action date. Claimant admits that he missed the interview, and did not reschedule his interview. He argued that he had attempted to reschedule, but was unable to contact his caseworker. Claimant was given one week to return proof of his attempts to reschedule, but was unable to do so.

However, the Department testified that during the time period in question, the Department's phones were overwhelmed and answering machines were frequently full. This admittance by the Department lends credibility to the claimant's testimony, which the undersigned already found credible.

Therefore, as the claimant testified that he was unable to reschedule, and the Department agreed that claimant would have had trouble during this time period rescheduling his appointment; the undersigned sees no reason to penalize the claimant who made a reasonable attempt to comply with the regulations.

#### 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 close the claimant's FAP case 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 negative action date and issue claimant supplemental benefits for the month of July, 2009, using the

eligibility standards the Department found for the claimant in August 2009.



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

Date Signed: 03/22/10

Date Mailed: 03/26/10

**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 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:

