

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: 20101555
Issue No: 3012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 12, 2009
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 November 12, 2009.

ISSUE

Was the claimant's FAP application processed in a timely manner?

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 applied for FAP in Wayne County on February 23, 2009.
- (2) Claimant attempted to inquire as to the status of her application several times over the next several months, but was unable to reach her caseworker.
- (3) Claimant's caseworker, when reached, finally scheduled claimant for an appointment on May 8, 2009.

- (4) When claimant attended the appointment, she was told that her caseworker was unavailable, and was given a substitute caseworker for that appointment.
- (5) Claimant filled out a second application on that day, and provided all verifications.
- (6) On May 25, 2009, claimant received a third FAP application in the mail, with instructions to fill it out and provide all necessary verifications.
- (7) Claimant did so, and also sent in an SER application.
- (8) Claimant did not hear back from the Department.
- (9) Claimant subsequently contacted the Department on July 7, 2009, and was unable to reach her caseworker.
- (10) Claimant requested a hearing on July 7, 2009, stating that her FAP application had been unfairly delayed.
- (11) Upon receipt of this hearing request, the Department subsequently processed claimant's FAP application.
- (12) However, claimant was not awarded FAP benefits based upon the July application, or even the May application.
- (13) Claimant was awarded benefits as of August 28, 2009, almost two months after the filing of her hearing request.

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. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130. All sources of income must be verified. BEM 500.

In the current case, the Department alleges that it has no application on file until claimant's July 7, 2009 hearing request. Claimant argues that she has filed 4 applications—counting the hearing request—since February 23, 2009, and still wasn't awarded benefits until August 28, 2009, almost two months after her most current application. The Department was unable to explain why claimant's benefits were not awarded retroactively to the most recent date of application.

The undersigned notes that the claimant submitted a hearing request two months before an official determination on her FAP application. The undersigned believes that the claimant would have no reason to phrase her request for hearing in such a manner if the claimant had not filed numerous applications. Thus, the undersigned finds it highly likely that events unfolded as the claimant alleges. The Department was unable to provide any evidence rebutting any point of

the claimant's allegations, and even goes so far as to admit that in their hearing summary that claimant filed an application on February 23, 2009.

Therefore, the Administrative Law Judge finds that the claimant's version of events is an accurate portrayal of the events in the current case. The Department was negligent in processing claimant's application. BAM 115 states that a claimant is eligible for benefits on a prorated basis from the date of application, when the group is eligible for the application month. This would mean claimant would be eligible for benefits as of February 23, 2009. As the Department appears to have lost claimant's initial application, a new eligibility determination must be made. Claimant should supply the Department with all information needed to determine eligibility for the months in question.

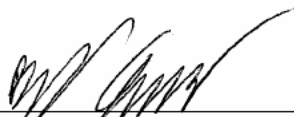
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's failure to process claimant's February 23, 2009 application was incorrect.

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

The Department is ORDERED to establish claimant's eligibility for FAP benefits retroactively to February 23, 2009. If claimant is found to have eligibility from this date, benefits shall be awarded retroactively to this date. Claimant is ORDERED, upon request by the Department, to provide any information necessary to determine eligibility for the FAP program, as per the policies found in the Bridges Administrative Manual and the Bridges Eligibility Manual. Should claimant require more time with which to provide the Department with this

information, all policies regarding extensions shall apply, as is consistent with the Bridges Administrative Manual.



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

Date Signed: 12/23/09

Date Mailed: 01/06/10

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:

[Redacted]