

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201042146
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 2, 2010
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 2, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's FAP benefits effective 6/30/10 due to Claimant's failure to timely return a Semi-Annual Contact Report.

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 ongoing FAP recipient.
2. As of 6/2010, Claimant received employment income.
3. On 5/1/10, DHS mailed Claimant a Semi-Annual Contact Report (SACR) (Exhibit 2); the SACR was due by 6/1/10 and warned Claimant of FAP benefit closure effective 6/30/10, if the form was not returned.
4. Due to problems Claimant had with her mail delivery, Claimant did not receive the SACR.

5. On unspecified dates in 6/2010, Claimant called DHS to inquire about a notice she received regarding FAP benefit closure; Claimant continued to contact DHS for the final two weeks of 6/2010 inquiring about the FAP benefit closure notice.
6. DHS returned some of Claimant's telephone calls but was not successful in reaching Claimant.
7. On 6/30/10, Claimant spoke with DHS and requested that the SACR be faxed so she could immediately return it.
8. DHS accommodated Claimant and faxed the SACR (Exhibit 1) to the fax number provided by Claimant.
9. Claimant did not receive the fax because the fax machine which she used did not have sufficient ink to print faxed documents.
10. On 6/30/10, Claimant requested a hearing concerning the closure of her FAP benefits due to her failure to return the SACR.

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 CML 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).

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.* FAP groups with countable earnings and a 12-month benefit period must have a semi-annual contact. *Id.* at 6.

The semi-annual mid-certification contact must be completed and results certified in Bridges by the last day of the sixth month of the benefit period to effect benefits no later than the seventh month. The contact is met by receipt of a completed DHS-1046 and required verifications. *Id.* at 7. If the client fails to return a complete SACR by the last day of the sixth month, Bridges will automatically close the case. *Id.* at 8.

Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. *Id.* at 1. The issue in this case involves determining how

far DHS is required to assist a Claimant that fails to meet the responsibilities for submitting documents to complete a redetermination.

There is little doubt that DHS properly mailed the SACR as it was submitted as Exhibit 2 and accurately reflected Claimant's mailing address. Bridges, the DHS database, should have properly mailed Claimant's SACR on 5/1/10, the date reflected on the SACR.

Claimant testified that she failed to receive the SACR after it was mailed by DHS. Claimant indicated that she has not received other documents from DHS; nevertheless, Claimant testified she never bothered to contact the United States Post Office concerning these delivery issues. Claimant also stated she never requested that DHS mail documents to a different and more reliable address to correct the issue. Claimant could not sufficiently explain why she never brought her mail delivery problem to the attention of the postal service. Though Claimant should have attempted prior to 5/2010 to resolve the problems of receiving her mail, Claimant was credible in testifying that such problems prevented her from receiving the SACR. It is found that DHS properly mailed the SACR, but Claimant did not receive the document.

Claimant's testimony concerning her communications with DHS was reliable. Claimant credibly testified that she contacted DHS in mid-6/2010 concerning a notice she received that her FAP benefits would close due to her failure to return the SACR. Claimant left multiple messages for her specialist inquiring what needed to be done to prevent her FAP benefit case from closing. Claimant's specialist testified that some, not all, of Claimant's calls were returned. The specialist also testified that she never reached Claimant when she did return her calls. It was not disputed that DHS faxed a SACR to Claimant on 6/30/10 but Claimant was unable to return the document because the fax which she utilized lacked ink and could not print documents.

Based on all of the evidence, Claimant inquired sufficiently prior to the termination of her FAP benefits for DHS to send Claimant a new SACR. Though DHS did fax Claimant an SACR on the final date in which her FAP benefits were active, the evidence indicated that it was Claimant's request for hearing rather than Claimant's need for the form that got her immediate attention. It is found that Claimant should have received the SACR sooner than the final date of her benefit period.

The undersigned is utterly sympathetic to the circumstances of the involved specialist. There is little question that the fault of DHS to assist Claimant is attributed to an unreasonable work expectation rather than neglect. The unreasonable work expectation excuses the specialist from responsibility, but not DHS as an agency. It should also be noted that Claimant was not faultless in her failure to submit a SACR; nevertheless, it is found that DHS improperly terminated Claimant's FAP benefits based on the failure to assist Claimant in providing her a replacement SACR.

Claimant indicated that subsequent to the closure of FAP benefits, she reapplied for FAP and was found eligible. Claimant is entitled to a supplement for FAP benefits for any period where she did not receive FAP benefits but not for any period which would result in duplicate issuance of FAP benefits.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefits. It is ordered that DHS reinstate Claimant's FAP benefits effective 7/1/10 and to supplement Claimant for any lapse in FAP benefits until the time she was subsequently approved for FAP benefits.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: September 14, 2010

Date Mailed: September 14, 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 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.

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