

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. 201050031
Issue No. 3004/3022
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 22, 2010
Office: Wayne County DHS (35)

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 22, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], and [REDACTED], appeared and testified.

ISSUES

1. Whether DHS properly failed to redetermine Claimant's eligibility for FAP benefits due to Claimant's alleged failure to submit a required form concerning her benefit redetermination.
2. Whether Claimant is entitled to an 8/3/10 application date for FAP benefits based on misinformation provided by DHS.

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. Claimant's FAP benefit period was scheduled to end on 7/31/10.
3. Claimant was an individual with employment earnings.
4. On 6/1/10, DHS mailed Claimant a Semi-Annual Contact Report (Exhibit 1).

5. Claimant failed to timely return the Semi-Annual Contact Report to DHS prior to the end of her FAP benefit period.
6. On 8/3/10, Claimant went to DHS to protest the closure of her FAP benefits and was told to submit a Semi-Annual Contact Report and that her FAP benefits would be reinstated.
7. DHS failed to reinstate Claimant's FAP benefits based on the submitted Semi-Annual Contact Report.
8. Claimant reapplied for FAP benefits on 8/16/10 and was approved effective 8/16/10 for FAP benefits.
9. On 8/16/10, Claimant submitted a hearing request disputing the termination of her FAP benefits on 7/31/10.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 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 Reference Tables Manual (RFT).

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.

In the present case, the DHS specialist testified that she did not receive Claimant's Semi-Annual Contact Report prior to the end of the sixth month. Claimant responded that she mailed a Semi-Annual Contact Report prior to the 7/1/10 due date. Though the undersigned found the specialist's testimony to be persuasive, a conclusion that the specialist did not receive the SACR does not necessarily mean that Claimant failed to mail it. Two possible explanations which would be consistent with the testimony of

Claimant and her specialist would be if the United States Post Office failed to deliver the SACR or if DHS received the SACR but failed to forward it to the proper specialist.

Claimant's testimony was that she mailed the SACR prior to the due date of 7/1/10. Claimant stated she mailed the document and had no record of the mailing. The undersigned cannot hold Claimant accountable for failing to have documentation of a simple mailing. Had Claimant dropped off the document at her DHS office, Claimant could have signed a drop-box log which would have verified her submission. No such documentation should be expected for mailing the SACR.

Claimant's testimony was very consistent and persuasive except for one significant issue. When DHS fails to receive a completed DHS-1046 with necessary verifications, DHS mails clients a DHS-1046-A on the tenth of the month in which FAP closure occurs. The DHS-1046-A states, "Our records indicate that you have not returned your Semi-Annual Contact form or required information. The form was sent to you and due on the first day of this month. If you need a replacement form or have questions, contact your specialist. If you feel that you received this form in error, contact your specialist at your local Department of Human Services." The heading of this form states, "NOTICE OF FOOD ASSISTANCE (FAP) CLOSURE" and further states that effective the end of the month that the FAP will be closed. DHS established that a DHS-1046-A (Exhibit 2) was mailed to Claimant on 7/10/10. The address on the form was consistent with Claimant's mailing address.

Claimant was asked why she only objected to her FAP closure after her benefit period ended. Claimant responded that she never received a DHS-1046-A. Though it is reasonable to believe that Claimant mailed her SACR and DHS failed to receive it, Claimant's explanation is less credible when considering that she only objected to her FAP closure after her benefits were terminated because she failed to receive a DHS-1046-A. A client that fails to submit documentation for a redetermination is more likely to ignore a notice that her benefits will be terminated. Of the possible scenarios involving errors by the United State Post Office, DHS and Claimant, the undersigned is more inclined to find that Claimant failed to timely submit a SACR. It is found that DHS properly terminated Claimant's FAP benefits due to Claimant's failure to submit a SACR.

Claimant reapplied for FAP benefits on 8/16/10. DHS approved Claimant's application for FAP benefits beginning 8/16/10. Claimant received FAP benefits for 7/2010. Thus, Claimant is only disputing FAP benefits from 8/1/10 though 8/15/10.

Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. *Id* at 1. On the same day a person comes to the local office, s/he has the right to file an application and get local office help to provide the minimum information for filing. BAM 105 at 1. An application or filing form, whether

faxed, mailed or received from the internet must be registered with the receipt date, if it contains at least the following information: name of the applicant., birth date of the applicant (not required for FAP), address of the applicant (unless homeless) and signature of the applicant/authorized representative. *Id.*

When Claimant went to DHS on 8/3/10 to complain of her terminated FAP benefits, Claimant was told by her specialist to complete a SACR and that her FAP benefits would be reinstated. Claimant completed a SACR but her benefits were not reinstated. Though the specialist did not intend to give Claimant misinformation, her advice to complete a SACR was fruitless as the specialist was unable to reinstate Claimant's FAP benefits without a completed application.


When Claimant returned to DHS on 8/16/10 for an explanation as to why her FAP benefits were not reinstated, Claimant was advised to reapply, which Claimant did. Though the undersigned is extremely hesitant to make a finding of fact based on a hypothetical scenario, Claimant's circumstances justify such a finding. It is believed that Claimant would have reapplied for FAP benefits on 8/3/10 had she been provided the local office help in providing the minimum information. The only information that Claimant's submitted SACR lacked from an application form was that it was not submitted on an application or filing form. The misinformation provided by DHS is sufficient to support a finding that Claimant's 8/3/10 SACR should have served as an application for FAP benefits. It is found that Claimant should have the benefit of an 8/3/10 FAP application based on the failure by DHS to properly inform her to reapply.

DECISION AND ORDER

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits effective 7/31/10.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant submitted sufficient information on 8/3/10 which should have been construed as an application for FAP benefits. It is ordered that DHS supplement Claimant for FAP benefits from 8/3/10 through 8/15/10 based on the already calculated FAP benefit amount for 8/2010.

/s/


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

201050031/CG

Date Signed: October 5, 2010

Date Mailed: October 5, 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.

CG/hw

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