

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: 2010-55596
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 26, 2010
Midland County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on October 26, 2010 . Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Food Assistance Program (FAP) benefits in September, 2010?

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 recipient of FAP when he was mailed a Semi-Annual Contact Report, DHS-1046, in July, 2010.
2. Department received DHS-1046 back from the claimant on August 10, 2010 which was completed, but only had one pay stub from claimant's employment enclosed with it.

DHS-1046 states that current proof of all income received for the past 30 days must be provided by the reporter.

3. As DHS-1046 was not complete, it was not logged into department's computer system, resulting in another notice being sent to the claimant telling him that his report is not complete. Claimant testified that he received this notice.

4. Department did not receive proof of claimant's income and his FAP benefits terminated in September, 2010.

5. Claimant requested a hearing on September 23, 2010.

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 Program Reference Manual (RFT).

That the department must verify income in order to determine claimant's ongoing FAP eligibility is not in dispute. BAM 130. That the claimant did not provide proof of 30 days of his income with DHS-1046 is also not in dispute. Claimant however testified that he submitted the DHS-1046 and his pay stub in person at DHS local office on August 10, 2010, and then called his caseworker and left her a message to call him, but she did not. Claimant also stated that he called his caseworker again in August, 2010, but she never returned this call either. Hearing was stopped briefly so that the claimant's caseworker could retrieve her telephone log from her work

station. Upon return, claimant's caseworker testified that her telephone log indeed contains a call from the claimant on August 10, 2010 with a message to contact him and the telephone number he could be reached at. The caseworker states she does not have any record of returning this call. The caseworker also stated that it is possible that the claimant called her again in August, 2010, but she could not offer any definite testimony to this.

This Administrative Law Judge is well aware of the heavy workload department is facing, and that omissions will occur due to such workload. However, it has been established in the hearing that the claimant did attempt to call the caseworker well prior to his FAP case closure, and that if she had returned his call he would have found out that he needed to provide additional income information. Such action could have prevented FAP closure. Claimant's FAP benefits must be therefore reinstated.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's FAP benefits in September, 2010.

Accordingly, department's action is REVERSED. Department shall:

1. Reinstatement claimant's FAP benefits if he meets all eligibility requirements.
2. Notify the claimant in writing of this determination.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 28, 2010

Date Mailed: October 29, 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.

IR/tg

cc:

