

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: 2010-14559
Issue No: 3008; 3019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 8, 2010
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 February 8, 2010.

ISSUE

Was the claimant's FAP case properly placed into negative action?

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 Wayne County in the amount of \$427.
- (2) Claimant's benefits were lowered to \$245 in September 2009.
- (3) This was allegedly because claimant did not provide adequate shelter expense verification.
- (4) Claimant was not sent a notice of negative action.

- (5) The Department was unable to provide the Administrative Law Judge with a copy of the notice of negative action, despite being given extra time to secure the notice.
- (6) The Department was unable to testify as to when the date of negative action was in the current case.
- (7) On December 15, 2009, claimant requested a hearing.

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).

Timely notice must be given for a negative action unless policy specifies adequate notice or no notice. BAM 220. For FAP, timely notice is required for all negative actions unless the situation is specifically listed under the adequate notice or no notice sections of BAM 220.

In the current case, none of those exceptions apply.

The only exception to the notice requirements in this case that could arguably apply is a statement in BAM 220 that no notice is required when an FAP certification period ends. However, there was no testimony or evidence presented at hearing that this was the end of a certification period.

The Department was given time at the close of the hearing to provide the Administrative Law Judge with a copy of the negative action notice, a request for verification from the claimant

that allegedly triggered the negative action notice, and a copy of a shelter verification form that was allegedly sent to the claimant. None of this information was returned.

Therefore, the undersigned will assume that this evidence does not exist.

Claimant's benefits were reduced, according to testimony, because she failed to return adequate shelter verifications.

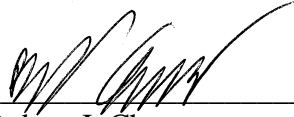
Due to the lack of requested evidence, the undersigned will therefore hold that claimant was never notified she needed to return shelter verifications, and that claimant was never sent a negative action notice, in contravention of BAM 220. Therefore, the Department actions are reversed in full. The undersigned must hold that the Department was incorrect when it lowered claimant's FAP benefits.

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 lower claimant's FAP benefits was incorrect.

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

The Department is ORDERED recalculate claimant's FAP eligibility retroactively from the date of negative action, using claimant's claimed shelter expenses. Claimant is to be supplemented any missed FAP benefits from this time period.



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

Date Signed: 04/29/10

Date Mailed: 04/29/10

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:

