

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: 2010-16425
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 3, 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 March 3, 2010.

ISSUE

Was the claimant's FAP case properly placed into closure for a failure to provide verifications of citizenship or alien status?

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.
- (2) On December 30, 2009, claimant was sent a negative action notice indicating that her FAP case was being placed into closure, effective February 1, 2010, for failing to provide proof of her alien status.

- (3) Claimant was never sent a request for proof of her alien status.
- (4) On January 7, 2010, 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).

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. BAM 130.

The claimant is to be told what verification is required, how to obtain it, and the due date for said item. The DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, is to be used to request verifications. BAM 130. The claimant must obtain required verification, but the Department must assist if the claimant needs and requests help. BAM 130.

The Department contends that claimant failed to return verifications of her citizenship/alien status, and was therefore placed into case closure. However, it is uncontested that the Department never sent the claimant a DHS-3503. The Department contended at hearing that the notice of negative action, the DHS-1605, was sufficient for providing notice to the claimant of the need for verifications, considering that her case wouldn't close for a month.

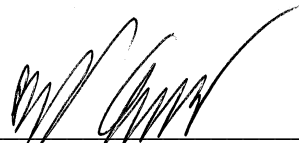
This is simply not true. Under no circumstances can a case action be used in place of a request for verifications, and there is no policy that supports such a contention. A negative action notice is just that—a notice that the claimant’s case is under a negative action. If the Department required verifications, it should have requested those verifications, as is explicitly required by policy. Claimant’s case should not have ever been subjected to a negative case action for failing to return verifications until the claimant had been given a chance to submit those verifications, and been given time to do so.

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 close claimant’s FAP case was incorrect.

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

The Department is ORDERED to remove all negative actions placed against claimant’s FAP case, and restore benefits retroactively to the date of negative action. Should the Department still require citizenship/alien status verifications from the claimant, the Department is FURTHER ORDERED, given the difficulty claimant expressed at the hearing, to assist claimant in securing those verifications.



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:

