

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: 201020013
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 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 18, 2010.

ISSUE

Was the claimant's FAP properly placed into closure for a failure to return verifications?

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) Claimant filled out a DHS-1046, Semi-Annual Contact on November 13, 2009.
- (3) Claimant returned this form in a timely manner.
- (4) The Department ruled that the form was insufficient because it did not contain required earned income verifications.

- (5) On December 10, 2009, claimant was sent a Notice of Case Action stating that her FAP case would be closed on December 31, 2009.
- (6) While this form stated that claimant needed to return required information, it did not tell claimant what required information she needed to return.
- (7) Claimant attempted to contact the Department over the next three weeks but was unable to contact her caseworker or anybody who could tell her what she needed to submit to prevent the case closure.
- (8) Claimant's FAP case closed on December 31, 2009.
- (9) Claimant was informed of the problem after the closure.
- (10) On January 29, 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).

An application or redetermination is considered incomplete until it contains enough information to determine eligibility. BAM 115. 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.

An application that remains incomplete may be denied. BAM 130. If the claimant cannot provide verification despite a reasonable effort, the time limit is to be extended at least one time. BAM 130.

With regard to the claimant's FAP case, the undersigned notes that the Department did send verification requests to the claimant as part of her semi-annual contact and that the claimant did return insufficient verifications. However, the undersigned is unconvinced that the Department allowed the claimant sufficient opportunity to correct her good faith error.

Claimant was given a semi-annual contact form that informed her to return verifications of her earned income. Claimant failed to return to the Department any verification, apparently missing the fine print on the form which informed her to return said verifications. Claimant was unaware that she needed to submit more verification.

When claimant received a notice that her FAP case would close if she didn't provide needed verifications, she attempted to contact the Department to find out exactly what was needed to prevent her case from closing. Unfortunately, claimant's caseworker was out on personal leave for much of the month of December, and claimant was unable to contact anybody at the Department who could give her an answer as to what she needed to provide. Furthermore, given that her caseworker was out on leave, it was highly unlikely that the claimant would have prevented her case from closing even if she had turned in the proper verifications. This is error.

BAM 130 states that if the claimant cannot provide verification despite a reasonable effort, extend the time limit at least one time. Claimant attempted throughout the month of December to gather information on her good faith mistake and correct her error, which is quite clearly a reasonable effort at providing verification. However, the Department, instead of

extending the time limit and informing the claimant of her duties, allowed the case to close. This is prohibited by BAM 130.

When a claimant has made a reasonable attempt at providing verifications, the Department may not simply state that the verifications were incorrect and close the case. BAM 130 states that an extension is to be granted—presumably this would include notifying the claimant of exactly what was wrong with their reasonable effort and giving them a chance to correct the mistake.


Claimant was never given a chance to remedy her mistake, and as such, the FAP case closure was incorrect.

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 reopen claimant's FAP case retroactively to date of case closure and re-request income verifications in order to determine eligibility in accordance with policy found in the Bridges Eligibility Manual.



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

Date Signed: 06/29/10

Date Mailed: 07/01/10

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:

