

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201025986

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 8, 2010

Macomb 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 April 8, 2010.

ISSUE

Did the Department of Human Services (DHS) properly place claimant's case into closure for a failure to attend a required interview?

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 Macomb County.
- (2) Claimant case was put into negative action on December 31, 2009.
- (3) This was ostensibly because claimant failed to attend a required interview.
- (4) No evidence was submitted as to when the required interview was, no negative case action was submitted, no evidence was submitted that

claimant failed to return a redetermination packet, and no evidence was provided that claimant missed the interview.

- (5) Claimant admitted to missing the interview and failing to return a redetermination packet but testified that he had called the Department in order to get the interview rescheduled, with no success.
- (6) Claimant requested a hearing January 11, 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 Bridges Reference Manual (BRM).

Under normal circumstances, the undersigned would begin a recitation of the applicable law, and state exactly how it was relevant to the current case. However, these are not normal circumstances. During the course of the hearing, the Department was unable to submit or offer any relevant exhibits into evidence. No exhibits established why claimant's benefit case had been placed into negative action. A case summary stated that claimant had failed to attend a required interview, but there was no documentary evidence was provided as to when the interview was, or whether claimant had actually failed to attend the interview. Claimant testified that he had attempted to reschedule the interview before his case closed.

Therefore, the Administrative Law Judge rules that the Department has not shown that claimant failed to attend an interview. The Department also has not shown that the negative action in this case was appropriate. No documentary evidence was provided. The hearing packet contained only information that an action had been taken, and no information as to why that action had been taken and is completely inadequate. No testimony was offered from the Department. Furthermore, even though claimant admits to missing the interview, he testified that he had attempted to reschedule and comply, without success. No evidence was submitted to rebut this testimony, and therefore, the undersigned finds this un-rebutted testimony to be fact.

For these reasons, the undersigned must hold that the Department has not proven their case.

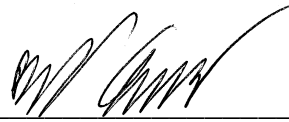
The Administrative Law Judge is under no burden to tell the Department of what is needed to prove their case and will not argue the Department's case for them. If the Department fails to submit adequate evidence, the Administrative Law Judge will rule on the evidence that has been provided. In the current case, no evidence has been provided. Therefore, the undersigned must rule that there was no violation of Department policies on the behalf of the claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that all negative actions taken against the claimant in December, 2009 were incorrect.

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

The Department is ORDERED to reinstate claimant's FAP case retroactive to the negative action date, December 31, 2009, and supplement claimant's benefits retroactive to the date of negative action.



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

Date Signed: 08/11/10

Date Mailed: 08/12/10

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:

