

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: 2010-2997
Issue No: 3008; 3019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 18, 2009
Oakland 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 November 18, 2009.

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 an FAP recipient in Oakland County.
- (2) Claimant was scheduled for a semi-annual FAP review in May, 2009.
- (3) Claimant was sent a contact form and a request to provide verifications.
- (4) Claimant allegedly did not provide those verifications.

- (5) Claimant was allegedly sent a negative action notice to notify her that her case was going to be closed.
- (6) Claimant testified that she never got this notice.
- (7) The Department was unable to provide the Administrative Law Judge with a copy of the notice.
- (8) On May 31, 2009, claimant's FAP was placed into closure for a failure to return verifications.
- (9) On September 18, 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 Department testified that claimant was up for a semi-annual contact in May, 2009; claimant was requested to provide the Department with several verifications of income. Claimant allegedly did not provide these verifications until mid-July, 2009. Claimant testified she never received a notification that her

case was pending to be closed, or had closed, and thus, did not know her FAP case had been closed. The Department was unable to provide a negative action notice to show that claimant had been notified of the action.

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, the Department testified at hearing that claimant's certification period did not end until December 31, 2009. Therefore, this exception does not apply to the current case; claimant was involved in a semi-annual contact, not a recertification of her FAP grant. Thus, timely notice was required.

The Department argued that under the new Bridges system, notice is sent out from a central processing unit, and the Department does not receive a copy of that notice. The Administrative Law Judge is wholly unsympathetic to this argument. An automated process is not evidence that notice was sent, nor is it an excuse for not providing the administrative court with the foundation of their case—that a negative action had occurred. The undersigned notes that BAM 220 states that Bridges will send timely notice automatically; however, this in no way proves that the notice was sent. Policy dictating an action will happen does not guarantee that the action actually happened, and the Department still has the burden of proof in showing that notice was sent. The Administrative Law Judge will not lower evidentiary standards because the Department's computer system does not provide its own representatives with copies of correspondence. For years, the Department has been required to show evidence of timely notice; this will not change because the Department has new computers.

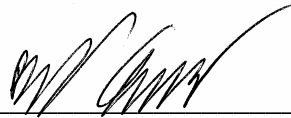
Therefore, because no evidence has been provided that claimant was sent timely notice, the undersigned must hold that timely notice was not sent. Therefore, the undersigned must hold that the Department was incorrect when it placed claimant's FAP case into closure.

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 place claimant's FAP case into closure without notice 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 retroactive to the date of case closure. As claimant has already provided verifications for processing of eligibility, the Department is FURTHER ordered to use the provided verifications to establish eligibility for the remainder of claimant's 2009 eligibility period. If claimant is found eligible for FAP benefits during this time period, claimant shall be issued the FAP benefit amount for which she is eligible, retroactive to the negative action date, as is consistent with policy.



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

Date Signed: 12/23/09

Date Mailed: 01/06/10

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

2010-2997/RJC

cc:

