

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.: 201037690
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 28, 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 telephone hearing was held on June 28, 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 [REDACTED].
- (2) Claimant was due for a semi-annual contact for her FAP benefits in April, 2010.
- (3) Claimant went to the DHS office to get a Semi-Annual Contact form, DHS-1046 during this time period.

- (4) Claimant was instead given a Change Report, DHS-2240 by DHS officials and told that this was the proper form.
- (5) Claimant returned this form in a timely manner.
- (6) Claimant returned all necessary verifications required for a redetermination/semi-annual contact.
- (7) The Department had all information necessary to determine claimant's continued FAP eligibility.
- (8) The Department closed claimant's FAP case solely on the reason that claimant had turned in the wrong form number to the Department.
- (9) On May 28, 2010, claimant applied for a hearing, alleging that she had been given the improper form by the Department officials.
- (10) Despite this notification, the Department proceeded to close claimant's case instead of giving claimant the proper form.

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.

There is no dispute in the current case that claimant had provided all required income verifications and any information necessary to determine eligibility; in fact, there is no dispute as to whether the claimant was eligible for FAP benefits. The only issue in the current case is the fact that the claimant turned in a DHS-2240 when she should have turned in a DHS-1046.

Leaving aside the fact that these forms were provided to the claimant by the Department—the undersigned doubts that the claimant has her own ready supply of DHS forms, and thus means that any error in the forms is solely the fault of the Department—the undersigned cannot reconcile the fact that the Department admitted that they had all required information, and only bureaucratic inertia prevented them from processing the case.

BAM 130 states that an application or redetermination is incomplete until the Department has enough information to determine eligibility. Conversely, when the Department has enough information to determine eligibility, an application or redetermination is complete. In the current case, there was information to determine eligibility; therefore, the claimant's redetermination was complete.

If the Department absolutely required a DHS-1046 as opposed to a DHS-2240, the Department should have contacted the claimant and had her sign a DHS-1046 (while continuing

to process claimant's redetermination), instead of closing the case when it knew what the claimant was obviously attempting to file.

The Administrative Law Judge would also point out that policy requires the Department to assist in the filing of an application; this would presumably include providing the correct forms, especially when an incorrect form has been provided, but the intent of the client is obvious. This would also include situations, such as the present case, where the case has not closed, the claimant has filed a hearing request explaining that she turned in all the forms provided to her by the Department, and is unsure as to why her case is being closed.

The present facts show that, at the bare minimum, the Department failed to assist the claimant. Furthermore, the Department had all information necessary to process claimant's case. The DHS-2240 is even remarkably similar to the DHS-1046. The undersigned can come up with no reason, beyond blind adherence to bureaucracy, that claimant's case was not processed. Therefore, the Department is in error.

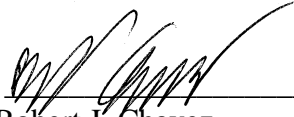
DECISION AND ORDER

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. Claimant is to be issued all supplemental benefits to which she is otherwise entitled.

/s/



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

Date Signed: July 20, 2010

Date Mailed: July 20, 2010

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/hw

cc:

