

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: 2010-4513  
Issue No: 3008  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
January 4, 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 January 4, 2010.

ISSUE

Did the Department of Human Services (DHS) correctly place claimant's case into closure for a failure to return required 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 was due for redetermination of his FAP case in September, 2009.
- (3) Claimant's FAP case was closed on September 30, 2010 for a failure to return his redetermination packet.

- (4) Evidence was not submitted that claimant had been given a redetermination packet, nor was any evidence submitted that claimant failed to return said packet.
- (5) Claimant requested a hearing on October 5, 2009.
- (6) Claimant subsequently reapplied for benefits and was reinstated as of October 16, 2009.
- (7) The Department's hearing representative, familiar with the case, did not appear despite numerous attempts to secure the representative's presence at the hearing.
- (8) A different Department representative appeared at the hearing instead, though this representative was unfamiliar with the details of the case.

#### 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 exhibits into evidence. The Department representative in charge of the case did not appear, despite substantial efforts to locate this representative, including several calls to said representative's voice mail and messages inviting the representative to conference in to the hearing at any time.

No evidence, other than a hearing summary was contained within the evidence packet, and the replacement Department representative was unable to offer any testimony, or locate any evidence to place into the record.

Therefore, the Administrative Law Judge rules that the Department has not shown that claimant failed to return his redetermination packet. The Department also has not shown that the claimant even received a redetermination packet. No documentary evidence was provided. The hearing packet—which, it should be noted, was never offered into evidence—contained only a hearing summary and claimant’s request for hearing, and would have been considered inadequate had the initial Department representative appeared.

Furthermore, the Department representative was on notice of this hearing. The record shows that this hearing had been adjourned once before, and the initial Department representative had notified Administrative Hearings that they were ready to proceed with the case. It was only after the undersigned attempted to contact the representative to start the hearing that the representative was unable to be located.

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

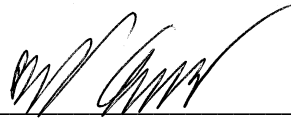
The Administrative Law Judge is under no burden to provide the Department of what is needed to prove their case, and will not argue the Department’s case for them. If the Department fails to submit adequate evidence, the Administrative Law Judge will rule on the evidence that has been provided. In the 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 the claimant did not fail to return his redetermination packet in the month of September, 2009.

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, September 30, 2009, and restore claimant's benefits retroactive to the date of negative action.



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

Date Signed: 03/01/10

Date Mailed: 03/05/10

**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:

