

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: 20107219
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 7, 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 7, 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) Client was to return a semi-annual contact in August, 2009.
- (3) Claimant was sent a DHS-1046, semi-annual contact, with instructions to return the completed form, with income verifications.
- (4) Claimant returned this form on August 20, 2009.

- (5) Even though claimant returned verification of income with the return of her form, the Department accidentally missed this verification.
- (6) Claimant's FAP case closed on September 30, 2009 for a failure to return proper income verification.
- (7) Claimant requested a hearing on October 26, 2009 alleging that she had not been given a proper time frame to return a second set of papers.
- (8) The Department, during a review of the case, realized that claimant had turned in verification of income with her DHS-1046.
- (9) However, this income verification was incomplete.
- (10) The Department subsequently reopened claimant's FAP case.
- (11) The Department sent out a DHS-3503, verification checklist on November 3, 2009.
- (12) Claimant did not return the required verifications for almost a month.
- (13) The Department subsequently closed claimant's FAP case for a failure to return required verifications.

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.

The current case has an admittedly confusing history. Several events that purported to reverse the original action in September happened in November; complicated by the fact that claimant may or may not have returned different verifications in November. However, the undersigned has decided in the interests of simplicity that only the actions of the Department in September are up for review. The action at hand, by all accounts, happened on September 30, 2009. Claimant requested a hearing on this action on October 26, 2009. All further actions, though an attempt to remedy the case by the Department, happened a month after the initial hearing request and after the hearing request had been received by SOAHR. These actions thus are of no relevance to the current action.

Our only question, therefore, is whether the negative case action of September 30, 2009, was correct. Did the Department correctly place claimant's case into closure for failing to return required verifications?

Our answer to this question must be no. By the Department's own testimony, claimant had submitted income verifications with her August 2009 redetermination form. These verifications were missed by the Department. The sufficiency of these verifications is not relevant at this point in time; when the hearing was requested, the Department did not even know that any verification had been submitted. The Department may not claim that the submitted verifications were insufficient when, technically speaking, at the time of this hearing request it

was unaware that there were submitted verifications in the first place. As it is uncontested that claimant had submitted verifications with her DHS-1046, and given that it is uncontested that the Department closed claimant's case for failing to submit any verification, the undersigned can only conclude that the Department's actions of September 30, 2009 were in error.

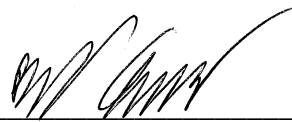
To be clear, the undersigned is only reviewing the Department's actions of September 30, 2009. Any subsequent actions, including the actions of November and December 2009, are not under review and have not been given consideration. However, it is the understanding of the Administrative Law Judge that there has been no separate negative action given for the events of November and December, 2009, and as such, any actions are unripe for review.

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 reinstate claimant's FAP case retroactive to the negative action date of September 30, 2009. Eligibility for the subsequent benefit months is to be calculated using all income and eligibility verifications already in the possession of the Department.



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

Date Signed: 03/05/10

Date Mailed: 03/11/10

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

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