

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201123424

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 1, 2011

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 June 1, 2011.

ISSUE

Was the claimant's FAP case properly placed into closure for failing to return a Semi-Annual Contact form?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Client was a FAP recipient in Macomb County.
- (2) In September 2010, claimant was sent a DHS-1046, Semi-Annual Contact.
- (3) Claimant never received this form.

- (4) Claimant had recently moved and had trouble receiving her mail.
- (5) Claimant had recently returned a redetermination form with all required information and believed that this was the necessary form to continue FAP benefits.
- (6) Claimant did not return the DHS-1046.
- (7) On October 1, 2010, claimant's FAP case was closed for failure to return the DHS-1046.
- (8) Claimant requested a hearing within the standards of promptness; this hearing request was not acted upon, and claimant subsequently made another hearing request on February 10, 2011.

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).

A complete DHS-1046, Semi-Annual Contact Report, must be submitted by groups with countable earnings and a 12-month benefit period. BAM 210.

In the current case, the Department contends that claimant did not return the DHS-1046, and therefore, her case was placed into closure.

Claimant contends that she did not receive the DHS-1046; claimant was therefore unable to return the DHS-1046.

While the undersigned believes the packet was mailed, the undersigned also believes that the claimant did not receive the form in question.

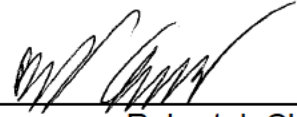
The Administrative Law Judge has determined that the claimant is credible, and thus finds her statement credible that she did not receive the forms in question. Furthermore, the claimant's demeanor, manner and testimony at the hearing painted a picture of credibility, and the undersigned, as the principal finder of fact, is willing to accept claimant's version of events. Claimant further testified that she has had difficulty in receiving other packets from DHS, mainly because claimant had recently changed addresses. Furthermore, claimant testified that she thought the DHS-1010, Redetermination, was the required form in question; given that the DHS-1010 and DHS-1046 are almost identical, and request similar information, the undersigned finds this statement credible. Therefore, for these reasons, the undersigned finds that claimant did not receive the form; the Department should resend the DHS-1046 if the form is still required.

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 retroactive to the date of negative action and award claimant any supplemental benefits to which she is otherwise entitled.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/15/11

Date Mailed: 06/16/11

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:

