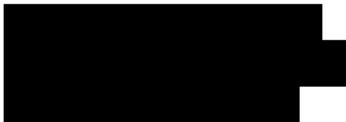


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF



Reg. No: 201137438
Issue No: 3008
Case No: [REDACTED]
Hearing Date:
July 25, 2011
Wayne County DHS (31)

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 July 25, 2011 at the Department of Human Services office in Wayne County, Michigan, District 31.

ISSUE

Was the claimant's FAP case properly terminated for failing to return a DHS-1046?
Did the Department properly assist claimant in filing a new application?

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 Wayne County.
- (2) In December, 2010, claimant was sent a DHS-1046 with a due date of January, 2011.
- (3) Claimant received this notice.
- (4) Claimant did not attempt to return the form until February, 2011.
- (5) Claimant's FAP benefits were closed for failing to return the DHS-1046.
- (6) Claimant was unable to contact her caseworker to return the form.

- (7) On March 10, 2011, claimant met with her caseworker and turned in the form.
- (8) Claimant was told that her benefits were to be reactivated.
- (9) Claimant's benefits were not reactivated until June, 2011.
- (10) On June 8, 2011, claimant filed a request for 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).

FAP recipients are required to return a DHS-1046, or face case closure. BAM 210.

The Department is required to assist all clients in the filing of benefit applications. BAM 105, 110.

In the current case, the Department contends that claimant did not return her DHS-1046.

Claimant testified that she started attempting to return the form in question in February, 2011, nearly a month after her benefit case had closed. By claimant's own testimony, claimant failed to return the form, and therefore, her case was properly closed.

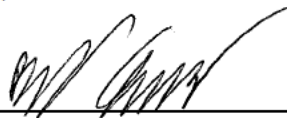
However, claimant's case could have been reopened had the Department properly provided claimant with an application for benefits. Claimant attempted in February to resolve the benefit issue; claimant was unable to contact her caseworker, which, given the history of claimant's troubles, the undersigned finds highly credible. Furthermore, claimant testified that at a meeting with her caseworker on March 10, 2011, claimant was told that her FAP benefits would be reopened, and there was no need for her to do anything else. The undersigned finds this testimony credible; an Administrative Hearing was held on March 10, 2011 before the undersigned with this claimant over similar benefit problems, and claimant did indeed have a meeting with the caseworker prior to the hearing. At the very least, claimant should have been given a new application on this date; had the claimant been able to contact her caseworker, she should have received an application in February, 2011. As claimant failed to receive an application, and as this failure was due to the failure of the Department to assist claimant in re-filing for benefits, the undersigned holds that the claimant should be provided with a new application that must be processed retroactive to February 1, 2011.

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 assistance case into closure was correct. The Department's failure to assist the claimant in reapplying for benefits was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, AFFIRMED IN PART and REVERSED in PART.

1. The Department is ORDERED to provide claimant with a new benefit application, if needed.
2. The Department is FURTHER ORDERED to process this application with a registration date of February 1, 2011.



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

Date Signed: August 2, 2011

Date Mailed: August 2, 2011

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:

