

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20118379
Issue No: 3006
Case No: [REDACTED]
Load No: 8243019813
Hearing Date:
March 9, 2011
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 March 9, 2010.

ISSUE

Was the claimant's FAP case properly closed 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) Claimant was a FAP recipient in Wayne County.
- (2) DHS sent claimant a DHS-1046, Semi-Annual Contact, for claimant's open FAP case.
- (3) Claimant received this notice.
- (4) On October 26, 2010, claimant returned all required materials.

- (5) On October 10, 2010, claimant was sent a DHS-1605, notifying the claimant that her FAP case would be closed on October 31, 2010.
- (6) On November 22, 2010, 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).

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

Claimant contends that she returned all required documents on October 26, 2010.

The undersigned notes that the Department representative could not testify personally as to what exactly claimant submitted at the front desk of the DHS office, as she was far down the chain of those who handled claimant's documents, and therefore was not able to testify personally as to the facts at hand. Additionally, none of the submitted evidence shows that claimant failed to return any of the required documents. While the testimony submitted would be adequate to show that claimant was sent a DHS-1046, this evidence is not helpful in making a determination as to whether claimant turned in the documents in question. No records of any sort show that claimant failed to return the documents.

Furthermore, the Administrative Law Judge has determined that the claimant is credible, and thus finds her statements credible. 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.

Therefore, as the undersigned finds the claimant credible, and as the Department cannot offer any specific rebuttal to the claimant's statements, beyond circumstantial evidence, the undersigned finds that the claimant turned in all required forms, and should not have had her FAP case placed into closure.


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 incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to reinstate claimant's FAP benefits retroactive to the date of negative action, and issue any supplemental benefits, retroactive to that date of negative action, to which the claimant is otherwise entitled.

Robert



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

Date Signed: 03/22/11

Date Mailed: 03/25/11

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:

[REDACTED]