

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201130598
Issue No.: 3004
Case No.: [REDACTED]
Hearing Date: May 23, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on May 23, 2011. The Claimant was present and testified. The Department of Human Services (Department) was represented by [REDACTED] FIS.

ISSUE

Was the Department correct in its decision regarding Claimant's FAP application date?

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 an ongoing FAP recipient with his wife.
2. Claimant's case was separated from his wife's case, as they maintained separate households.
3. Claimant's wife continued to receive FAP benefits for a group of one from March 1, 2011 and ongoing.
4. Claimant attempted to apply for his own FAP benefits prior to March 1, 2011 and onward.

5. The Department transferred Claimant's case and did not register Claimant's application until May 9, 2011.
6. Claimant requested a hearing on April 1, 2011.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) 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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT).

BAM 105 dictates:

The local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights.

CLIENT RIGHTS

Right to Apply All Programs

On the **same day** a person comes to the local office, a person has the right to file an application and get local office help to provide the minimum information for filing.

An application **or** filing form, whether faxed, mailed or received from the internet must be registered with the receipt date, **if** it contains at least the following information:

- Name of the applicant.
- Birth date of the applicant (not required for FAP).
- Address of the applicant (unless homeless).
- Signature of the applicant/authorized representative.

An application/filing form with the minimum information listed above must be registered in Bridges using the receipt date as the application date even if it does not contain enough information needed to determine eligibility; see [BAM 110](#) .

If an application/filing form does not contain the minimum information listed above, send it back to the client along with a DHS-330, Notice of Missing Information, informing the client of the missing information.

BAM 105, p. 1.

In the present case, Claimant testified credibly that he attempted to apply for his own FAP benefits numerous times since March 1, 2011, and he was told by Department workers to place his application in the drop box, which he did. It was not until Claimant

was assigned to his current worker that he received assistance with his application in May of 2011. I am not convinced that the Department followed its own policy in protecting client rights. Therefore, the Department's decision regarding Claimant's application date was incorrect.

It is noted that Claimant also requested a hearing on [REDACTED] but at the hearing Claimant stated that the hearing on that matter has been already held.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in its determination of Claimant's FAP application date, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall back-date Claimant's May 9, 2011 application to March 1, 2011. It is further ORDERED that any missed or increased payments shall be made in the form of a supplement.

Susan C. Burke

Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 31, 2011

Date Mailed: May 31, 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.

SCB/ hw

cc: [REDACTED]

