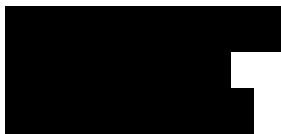


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-36047

Issue No: 3016



Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on June 2, 2011. After due notice, a telephone hearing was held on July 12, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly terminated Claimant's Food Assistance Program (FAP) benefits?

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 receiving FAP at all times pertinent to this hearing.
2. Claimant timely submitted her Redetermination (DHS-1010) on May 31, 2011. (Department Exhibits 1-3).
3. Claimant submitted a hearing request on June 2, 2011, protesting the closure of her FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Reference Tables Manual (RFT).

Departmental policy states that on receipt of the Redetermination, the department must review, document and verify the eligibility factors as required. BAM 210. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. A **negative action** is a DHS action to deny an application or to reduce, suspend or terminate a benefit. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. BAM 220.

In this case, Claimant credibly testified that when she turned in her Redetermination on May 31, 2011, her caseworker told her that her FAP benefits would close because she was a student. Claimant testified that her FAP benefits stopped and she never received a Notice of Case Action.

The departmental representative verified that a Notice of Case Action closing Claimant's FAP case was not generated, and Claimant's FAP case was improperly closed. Claimant's last FAP issuance was May 2011. According to the departmental representative, when the department received Claimant's Redetermination and noted Claimant was reporting her enrollment in school, a Verification Checklist should have been generated for the reported change to determine whether it would affect Claimant's eligibility or benefit level.

The Administrative Law Judge finds the department improperly closed Claimant's FAP benefits. The termination of Claimant's FAP benefits is defined in departmental policy as a negative action which requires the department to provide Claimant with timely notice. Because the department failed to provide Claimant with timely Notice of the closure of her FAP benefits the department's actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed Claimant's FAP case. Accordingly, the department's actions are REVERSED and the department SHALL redetermine Claimant's FAP eligibility back to the date of her Redetermination and issue any supplement FAP benefits to which she is otherwise entitled.

It is SO ORDERED.

_____/s/_____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/14/11

Date Mailed: 7/14/11

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.

VLA/ds

