

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2010-14837
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 9, 2010
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37, and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on June 9, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant reported a change of address to DHS as required by DHS policy and procedure?

FINDINGS OF FACT

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

1. In 2009, Claimant was unemployed.

2. In 2009, Claimant received Food Assistance Program (FAP) and Adult Medical (AM) benefits.
3. In February, 2009, two days before he moved, Claimant reported a change of address to DHS by telephone. The DHS case worker took the information and advised Claimant that his reporting requirement was fulfilled.
4. On or about July 30, 2009, Claimant received a DHS letter that was sent to his old address, but he did not inform DHS that the address on the letter was incorrect.
5. On October 14, 2009, DHS sent a Redetermination Telephone Interview notice to Claimant's old address. Claimant did not receive this letter.
6. On November 13, 2009, DHS sent a Notice of Missed Interview to Claimant's old address. Claimant did not receive this letter.
7. On November 30, 2009, DHS discontinued Claimant's FAP benefits.
8. Claimant made five or six attempts to contact the DHS [REDACTED] Office and the [REDACTED] Office but his calls were disconnected.
9. On December 28, 2009, Claimant submitted a hearing request. The hearing request included his current address.
10. On December 29, 2009, DHS sent a letter to Claimant's old address and Claimant received it.

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS' FAP policies are also found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). These manuals are available online at www.mich.gov/dhs-manuals.

The manual section that states the DHS policy and procedure for the matter before me is Bridges Administrative Manual 105, "Rights and Responsibilities." BAM 105 states that customers in Claimant's status must report changes of address within ten (10) days after the customer knows of the change. DHS is responsible to explain the reporting requirements to the customer at the time of the customer's application, redetermination, and whenever DHS is discussing changes in circumstances with the customer. BAM 105, pp. 7-8.

Changes may be reported in person, by mail or by telephone. DHS has a Change Report Form, DHS-2240, which customers may use to report changes, but the form is not required. Changes must be reported in a timely manner whether or not the customer uses DHS-2240. *Id.*, p. 8.

DHS is required to give or send DHS-2240 to every customer at the time of application, redetermination, when DHS determines there is a need for the customer to have the form, upon a customer request, and whenever a DHS-2240 is returned to DHS. Also, DHS must give every customer a copy of DHS Publication 280, "Reporting Changes – When to Report – How to Report – What to Report." This publication describes the customer's reporting responsibilities,

and must be given to the customer at the time of application, redetermination, and when a customer requests it. *Id.*

At the hearing in this case, Claimant gave credible and un rebutted testimony that he reported his change of address to DHS two days before he moved. I believe his testimony because he specified that it was two days before he moved, and his testimony was spontaneous and emphatic. Although he admitted he failed to contact DHS after receiving the July 30, 2009, letter addressed to his old address, I do not find that this lessens the credibility of his un rebutted testimony that he reported the change properly at the outset.

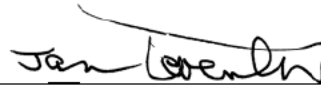
I conclude that this is true also based on the fact that DHS failed to contradict Claimant's sworn testimony that he reported the change. In addition, the DHS witness acknowledged it was possible that a change of address did not get entered into the system. I also note that DHS produced no evidence or testimony that Claimant ever received a DHS-2240 Form, and DHS did not testify that Claimant received DHS Publication 280.

I am also persuaded that such an error could easily have occurred because even when Claimant made his hearing request in December, 2009, and gave his correct address in the request, DHS sent a letter to his old address again. Finally, I am persuaded by Claimant's repeated attempts to telephone DHS and being disconnected, that it is more likely that the communication difficulties in this matter arose from DHS error and not Claimant's failure to report his change of address.

I conclude that DHS' November 30, 2009, termination of Claimant's FAP benefits is, therefore, erroneous and shall be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS' termination of Claimant's FAP benefits is erroneous and shall be REVERSED. The Department is Ordered to conduct a redetermination of Claimant's continuing eligibility for FAP benefits, reinstate those benefits and provide any sums to Claimant to which he is entitled retroactively to November 30, 2009, in accordance with applicable law and policy.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 10, 2010

Date Mailed: June 10, 2010

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.

JL/pf

cc:

