

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.: 2010-37443  
Issue No.: 3022  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
June 28, 2010  
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone hearing was conducted from Detroit, Michigan on June 28, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

1. Whether Claimant had good cause for untimely filing a hearing request concerning 8/2009 termination of his FAP benefits.
2. If Claimant is considered to have timely disputed the 8/2009 FAP termination, whether DHS properly failed to process Claimant's redetermination.

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.

2. Claimant's FAP benefit period was scheduled to end 8/31/09.
3. Claimant submitted to DHS an Assistance Application (DHS-1171) and verifications on 6/30/08 through the Inkster DHS drop box.
4. Claimant signed his name on the drop box log as proof that he dropped of the documents.
5. DHS failed to process Claimant's redetermination on the basis that Claimant failed to submit his redetermination documents.
6. Claimant's FAP benefits ended on 8/31/09.
7. In approximately 11/2009, Claimant was told by DHS Family Independence Manager, Ms. Susan Wright, that Claimant's FAP benefits would be reinstated back to 9/1/09 due to DHS error.
8. Claimant reapplied for FAP benefits in 11/2009.
9. Claimant submitted a hearing request on 2/12/10 regarding the DHS failure to redetermine Claimant's FAP benefits beginning 9/1/09.

#### CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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).

Claimant is disputing the failure of DHS to redetermine Claimant's FAP benefits beginning 9/1/09. Claimant filed a hearing request concerning the redetermination on 2/12/09.

BAM 600 covers the DHS policy for administrative hearings including deadlines for clients to file hearing requests. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4. If a recipient files an untimely hearing request for FAP benefits, the request may be effective if Claimant establishes good cause for being untimely. *Id* at 18.

There is no doubt that Claimant's hearing request was submitted to DHS significantly more than 90 days following the written notice concerning Claimant's redetermination denial. However, Claimant provided additional testimony which may establish good cause. Claimant testified that in approximately 11/2009 that he was discussing the issue with [REDACTED], a Family Independence Manager. Claimant testified that he was advised by [REDACTED] that Claimant's FAP benefits would be reinstated back to 9/1/09. Claimant's testimony was credible and undisputed.

Penalizing Claimant for not being trusting of the manager would mean penalizing Claimant for showing patience and faith in the reinstatement process. The undersigned is not inclined to strictly interpret the hearing request process against such a Claimant. Claimant's conversation with the DHS manager occurred within the 90 day timely period following Claimant's FAP benefit closure. It is found that Claimant established good cause for his failure to timely request a hearing concerning his FAP benefits.

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id*. DHS mails clients a redetermination form (in the present case, a DHS-1171) the month prior to the end of the current benefit period with a request for necessary verifications. *Id* at 4. Clients must complete and return the necessary documents to DHS for the redetermination to be processed. *Id* at 10.

Failure to submit the documents during the benefits period results in denial of the redetermination and case closure. *Id.*

Claimant credibly testified that he submitted an Assistance Application (DHS-1171) and most of his required verifications shortly before 7/1/09. Claimant further testified that he recalled submitting a separate verification shortly after 7/1/09. DHS testified that Claimant's case file did not have any of the documents that Claimant allegedly submitted. Claimant's testimony was bolstered by his signature on a 6/30/09 DHS record of drop-box submissions. The signature does not verify that Claimant actually submitted a document or what the document was, but it tends to confirm Claimant's testimony that he timely submitted the documents needed for his redetermination. It is found that Claimant timely submitted all documents necessary for his FAP benefits redetermination. It is also found that DHS improperly failed to redetermine Claimant's FAP benefits beginning 9/1/09.

Claimant reapplied for FAP benefits on 11/9/09 and began receiving benefits for that date. Claimant is only entitled to a supplement of FAP benefits which he did not receive. It is found that Claimant is entitled to a supplement of FAP benefits from 9/1/09-11/8/09.

#### DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant had good cause for untimely filing his hearing request disputing redetermination of his FAP benefits and that DHS improperly failed to redetermine Claimant's FAP benefits beginning 9/1/09.

It is ordered that DHS supplement Claimant for any lost FAP benefits between 9/1/09-11/8/09. DHS may request documents necessary for the supplement in accordance with their policies.



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Christian Gardocki  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 6/29/2010

Date Mailed: 6/29/2010

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.

CG/jlg

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