

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201052488
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 30, 2010
Office: Wayne County DHS (82)

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 the claimant's request for a hearing. After due notice, a telephone hearing was held on September 30, 2010. The claimant appeared and testified; Claimant's representative, [REDACTED], also appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

1. Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits due to Claimant's failure to submit documents for a redetermination of benefits.
2. Whether DHS properly terminated Claimant's FAP benefits based on Claimant's living arrangement.

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 a FAP benefit end date of 7/31/10.
2. Claimant was a resident of a group living home.
3. Prior to 5/2010, Claimant lived in a group facility with an address of [REDACTED].

4. In 5/2010, Claimant's representative reported to DHS that Claimant moved to a group facility with an address of 8733 Hugh.
5. On 6/15/10, DHS mailed Claimant a Redetermination (Exhibit 1) and a Redetermination Telephone Interview (Exhibit 2) to 8536 Fenton for the purpose of reviewing Claimant's eligibility for FAP benefits.
6. On 7/1/10 DHS mailed Claimant a Notice of Missed Interview (Exhibit 3) to [REDACTED].
7. In 7/2010, Claimant's representative contacted Claimant's specialist about the redetermination of FAP benefits but was told that Claimant would not be eligible for FAP benefits because Claimant's group residence was not licensed.
8. Claimant's FAP benefits ended on 7/31/10 as Claimant's FAP benefits were not redetermined by DHS.
9. Claimant's representative requested a hearing on 8/26/10 disputing the lack of redetermination of Claimant's FAP benefits.

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).

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.*

The FAP and MA benefit redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.* at 4. The packet consists of forms and requests for verification that are necessary for DHS to process the redetermination. The forms needed for redetermination vary based on the program scheduled for review; a Redetermination (DHS-1010) is an acceptable form for FAP and MA benefit redetermination. Failure by a client to submit any of the needed documents during the benefits period results in denial of the redetermination and case closure. *Id.*

Claimant's representative credibly testified that she attempted to submit a Redetermination on behalf of Claimant but was advised by Claimant's DHS specialist not to bother because Claimant would not be eligible because of her living arrangement. The DHS specialist was not present for the hearing to rebut this testimony. It is found that Claimant's representative attempted to submit a Redetermination on behalf of Claimant. As Claimant, through her representative, attempted to submit a Redetermination but was refused by DHS, it must be found that DHS erred by terminating Claimant's FAP benefits for failing to submit a Redetermination.

The next issue is whether Claimant could receive FAP benefits as a resident of a group facility. Residents of certain group living facilities can qualify for State Disability Assistance (SDA) and/or Food Assistance Program (FAP). BEM 615 at 1. This item (BEM 615) defines these facilities and the programs for which residents may be eligible. *Id.* The group facilities defined in BEM 615 are: adult foster care home, CMH/DMH supported community living facility, county infirmary, substance abuse treatment center, home for the aged, long-term-care facility, shelter for domestic violence, federally subsidized housing for the elderly and temporary housing for the homeless. DHS was not able to establish that Claimant's residence fit into any of these facility types. BEM 615 goes on to state that unless otherwise stated in this item, a facility is not permitted to accept food assistance benefits for meals served to its residents. Clients may use their food assistance benefits for purchases at regular outlets.

DHS has not officially determined that Claimant is ineligible for FAP benefits based on Claimant's living arrangement. The undersigned is not inclined to evaluate an issue that DHS has yet to officially make. Further, the undersigned lacks the necessary evidence to determine if Claimant's residence provides meals for Claimant, or not. The issue of Claimant's living arrangement shall be left for DHS to determine following receipt of Claimant's redetermination documents.

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 DHS improperly terminated Claimant's FAP benefits due to a failure to accept Claimant's redetermination documents. It is ordered that DHS reinstate Claimant's FAP benefits as of 8/1/10 and to determine Claimant's eligibility based on her living arrangement. As Claimant has not yet submitted redetermination forms to DHS, DHS may request such forms prior to

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determining Claimant's eligibility.

/s/



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

Date Signed: October 12, 2010

Date Mailed: October 12, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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/hw

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