

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.: 2010-25995
Issue No.: 1005/3022
Case No.: [REDACTED]
Hearing Date: February 14, 2011
Macomb County DHS (20)

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 February 14, 2011. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits effective 12/2009 due to Claimant's alleged failure to timely submit a Redetermination.

FINDINGS OF FACT

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

1. Claimant was an ongoing FIP and FAP benefit recipient.
2. Claimant's FAP and FIP benefits were scheduled to end by 12/31/09.
3. In 11/2009, DHS mailed Claimant a Redetermination advising Claimant to return the Redetermination to DHS and to attend an interview.
4. Claimant did not return the Redetermination to DHS by 12/31/09.
5. As a result of Claimant's failure to submit a Redetermination, Claimant's FAP and FIP benefits terminated on 12/31/09.

6. On 1/12/10, Claimant reapplied for FIP and FAP benefits.
7. On an unspecified date, DHS approved Claimant for FAP benefits effective 1/12/10 and FIP benefits effective 2/1/2010
8. On 1/22/10, Claimant requested a hearing disputing the termination of FIP and FAP benefits and her failure to receive FIP benefits for 1/2010 and FAP benefits from 1/1/2010-1/11/2010.

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 Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. 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 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 may vary though a Redetermination (DHS-1010) is an acceptable review form for all programs.

A complete redetermination packet is to be logged as received by DHS. *Id.* at 7. If a redetermination packet is not logged as received, Bridges (the DHS database) will send a Notice of Case Action informing the client of case closure. *Id.* at 8.

In the present case, the dispute concerned whether Claimant submitted a Redetermination to DHS. Claimant's DHS Specialist testified that she did not receive a Redetermination by 12/31/09 and as a result, Claimant's FIP and FAP benefits appropriately ended. Claimant contended that a Redetermination was timely submitted and Claimant's FIP and FAP benefits improperly ended.

In circumstances when a client claims to have submitted a document that DHS denies receiving, the undersigned is typically left with circumstantial evidence to make a determination. The first evidence to consider is the testimony of each party. Each side can only testify about their personal knowledge. In the present case, Claimant presented first-hand testimony that a Redetermination was submitted to DHS. A DHS specialist can credibly testify that he or she has first-hand knowledge that he/she did not receive a document; however, in many cases including the present one, a document is not given directly to the specialist. Thus, it is always possible that a client submitted a document to DHS but the document was misplaced within the DHS custody chain prior to the DHS specialist. Based on the immense volume of documents received by DHS, it is reasonable to believe that DHS staff would occasionally lose or misdirect submitted paperwork.

Claimant's testimony indicated that she submitted several documents to DHS in 12/2010. Claimant did not specify which documents were submitted but she seemed certain that a Redetermination was one of the submitted documents. Claimant's testimony was supported by her witness and housemate, [REDACTED]. [REDACTED] stated that in 12/2009, he personally dropped off several documents to DHS on behalf of Claimant. Again, he could not testify that the submitted documents included a Redetermination.

The testifying DHS specialist testified credibly that Claimant failed to submit a Redetermination in 12/2009. The DHS specialist conceded that several documents were received from Claimant in 12/2009, but those documents concerned a request for Child and Development Care (CDC) benefits and [REDACTED] eligibility as a CDC provider. The specialist also indicated that had a Redetermination been submitted, then Claimant's benefits would surely not have stopped on 12/31/09.

During the hearing, Claimant stated that her grandchildren "lost" the Redetermination causing Claimant to miss a previously scheduled DHS appointment; the Redetermination also notified clients of an appointment date and time. Claimant subsequently testified that after realizing she missed the appointment, she made several calls to her DHS specialist so she could be interviewed. Claimant also subsequently testified that she submitted the Redetermination in 12/2009. When Claimant was asked how she could have submitted the Redetermination if it was lost, Claimant did not provide a sufficient explanation. Claimant could have easily resolved the discrepancy by indicating that the Redetermination was misplaced but subsequently

found; however, this explanation was not provided by Claimant. Based on the submitted evidence, it is found that Claimant did not submit a Redetermination to DHS in 12/2009. Accordingly, it is found that Claimant's FIP and FAP benefits were properly terminated by DHS due to Claimant's failure to submit a Redetermination to DHS by 12/31/09, the end of her FIP and FAP benefit period.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP and FIP benefits effective 12/31/09. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/23/2011

Date Mailed: 2/23/2011

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 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.

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