

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

IN THE MATTER OF THE CLAIM OF:



Reg. No.: 2010 29359
Issue No.: 2006/3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 24, 2010
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 June 24, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

1. Whether DHS properly denied Claimant's redetermination for Healthy Kids (HK) benefits due to Claimant's failure to return documents required for redetermination.
2. Whether DHS properly terminated Claimant Food Assistance Program (FAP) benefits due to Claimant's failure to submit a Semi-Annual Contact Report (DHS- 1046).

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP recipient and grantee of an MA group receiving HK benefits.
2. Claimant was part of a FAP group with countable earnings.

3. Claimant's residence caught fire in 12/2009 causing unreliability in her mail service.
4. On 1/12/10, DHS mailed Claimant a Healthy Kids Redetermination notice.
5. Claimant's HK benefits were scheduled to end 2/28/10.
6. On 2/12/10, DHS mailed Claimant a notice of case action terminating Claimant's HK benefits due to Claimant's failure to return redetermination documents.
7. Claimant was mailed a Semi-Annual Contact Report (DHS-1046) on 2/1/10 concerning continuing her FAP benefits beyond 3/31/10.
8. On 3/10/2010, Claimant called DHS and requested the mailing of a second DHS-1046.
9. Sometime after 3/10/10, in 3/2010, Claimant submitted a DHS-1046 and necessary verifications concerning extending her FAP benefits.
10. Claimant submitted a hearing request on 3/24/10; Claimant testified that the request was concerning termination of her FAP benefits on 3/31/10 and termination of her MA benefits on 2/28/10.

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).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have

financial resources to purchase them. Healthy Kids (HK) is a type of coverage within the MA program.

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 packet in the month prior to the end of the benefit period. *Id.* at 4. The packet consists of forms and requests for verification necessary for DHS to process the redetermination. The forms needed for redetermination vary based on the program scheduled for review. 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.*

In the present case, Claimant's MA benefits were scheduled to end 2/28/10. Claimant testified that she submitted needed MA redetermination forms in 3/2010. If Claimant's testimony is believed, then Claimant submitted her documents untimely because the submission occurred after her case closed and the MA benefits were terminated. Though the undersigned is sympathetic that Claimant had legitimate mail issues that contributed to an untimely submission of redetermination forms, there is no basis in DHS policy to excuse Claimant's lack of punctuality. It is found that DHS properly did not recertify Claimant's MA benefits due to Claimant's failure to timely submit her MA redetermination documents.

Claimant's proper recourse would have been to reapply for MA benefits as soon as she learned that her benefits were terminated. Claimant's testimony indicated she has still yet to reapply for MA benefits. Though MA benefits generally begin with the month of application, the MA program allows clients to apply for up to three months of retroactive benefits. If Claimant reapplies immediately and is approved, she would not suffer any lapse in Medicaid coverage.

Claimant's FAP benefits were scheduled to end on 3/31/10, the sixth month of a 12 month benefit period. Claimant was part of a FAP group with countable earnings. FAP groups with countable earnings and a 12-month benefit period must also have a semi-annual contact. *Id.* at 6. DHS established that Claimant was mailed a Semi-Annual Contact Report (DHS-1046) on 2/1/10. DHS testified that the form was never returned.

Claimant credibly testified that she contacted DHS and requested a new DHS-1046 and returned the form with the needed verifications in 3/2010. Claimant's specialist was not present for the hearing. The DHS representative was unable to rebut Claimant's testimony based on first hand knowledge.

The undersigned is also persuaded to find Claimant credible because of Claimant's hearing request date. Claimant requested a hearing on 3/26/10 which is prior to the date that her FAP benefits were terminated. A client that requests a hearing after a benefit

period closed tends to show that the client is only concerned about missing benefits, not continuing benefits. A client that requests a hearing during a benefit period tends to show the client is interested in the redetermination process and continuing benefits. It is found that Claimant submitted a DHS-1046 and needed verifications prior to the end of her FAP benefit period. It is accordingly found that DHS improperly closed Claimant's FAP benefits on the basis of Claimant's alleged failure to submit needed redetermination forms.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED in part. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's MA benefits.

The actions taken by DHS are REVERSED in part. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefits. It is ordered that DHS supplement Claimant for FAP benefits beginning 4/1/10. DHS may make requests for documents needed to process the supplement in accordance with their policies.



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

Date Signed: 07/01/2010

Date Mailed: 07/01/2010

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.

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