

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201138774
Issue No: 3022
Case No.: [REDACTED]
Hearing Date: July 20, 2011
Wayne County DHS (55)

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 July 20, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether Claimant properly gave notice of a dispute concerning a termination of Food Assistance Program (FAP) benefit eligibility to be effective 3/2011.
2. If Claimant provided proper notice of a redetermination dispute, whether DHS properly failed to redetermine Claimant's FAP benefit eligibility effective 3/2011.

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 FAP benefit recipient.
2. Claimant's FAP benefit period was scheduled to end 2/28/11.
3. Claimant's ongoing FAP benefits ended in 2/2011 due to some unspecified failure by Claimant to complete the redetermination process.
4. On 3/28/11, Claimant reapplied for FAP benefits.

5. On an unspecified date, DHS approved Claimant for \$1052/month in FAP benefits and \$135 in pro-rated FAP benefits effective 3/28/11.
6. On 5/23/11, Claimant requested a hearing intending to dispute the 2/2011 termination of 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). DHS administers the FAP 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 undersigned will refer to the DHS regulations in effect as of 2/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

BAM 600 is the DHS policy section concerning administrative hearings. The regulations discuss who may request a hearing, the deadline for requesting a hearing, what issues are disputable and how a request is to be made. There is no guidance provided for how claimants are to provide notice of the issue in dispute. The Michigan Administrative Code is similarly silent as to what a client must do to identify a disputed issue in a hearing request.

As a general rule, clients should be given some leniency in framing the issues for dispute at an administrative hearing. Clients should not be expected to be well-versed in DHS language (e.g. redetermination, FAP, negative actions...). Clients should also be given some leniency in the completion of hearing documents as most people are not experienced through their education or professional experience to appreciate a preference for a thoroughly written hearing request. On the other hand, the undersigned is inclined to impose some minimal standard on clients when requesting a hearing. A hearing request should identify a disputed issue so that DHS may properly respond to the hearing request and prepare for the administrative hearing.

In the present case, Claimant intended to dispute a termination of FAP benefits that occurred while she had an active benefits case at the [REDACTED] DHS office. The termination occurred in 2/2011. On 5/23/11, Claimant submitted a Request for Hearing to a DHS office in [REDACTED]. The request for Hearing read "I did not receive Food

Stamps for March 2011. While be recertified in January at the former office at the [REDACTED] office.”

Claimant stated that she intended to dispute a termination of ongoing FAP benefits effective 2/2011 that occurred at the DHS office on [REDACTED]. DHS interpreted Claimant's request to be a dispute about Claimant's pro-rated FAP benefits for 3/2011 based on Claimant's 3/28/11 FAP benefit application. It must be determined whether Claimant's Request for Hearing served as sufficient notice of the issue concerning Claimant's 2/2011 FAP benefit termination.

The undersigned is sympathetic with why the DHS specialist would have believed that the Request for Hearing was intended to dispute the processing of Claimant's 3/28/11 application. Claimant requested the hearing at the office where the new application was processed, not the DHS office where her FAP benefits were not redetermined. Claimant could have utilized the DHS-18 which accompanied the Notice of Case Action which terminated Claimant's FAP benefits; had Claimant done so, DHS could have identified the dispute concerning redetermination based on the hearing request submission. It also would have been easier to identify the issue had Claimant requested a hearing shortly after the FAP benefit termination rather than several weeks later, though there was no dispute that Claimant's hearing request met the timeliness requirement. Finally, Claimant's language in identifying the issue was not so clear that it would have easily led a DHS specialist who had no knowledge of a prior redetermination to believe that was what Claimant was disputing.

On the other hand, Claimant used enough language that DHS had some notice that a failure to redetermine benefits was being disputed. Though the DHS office that received the hearing request had no knowledge of Claimant's prior redetermination problem, the matter could have been better resolved by simply asking Claimant what DHS action she intended to dispute. Based on the presented evidence, the undersigned is inclined to find that whether DHS properly failed to redetermine Claimant's FAP benefits for 3/2011 is the proper issue in dispute.

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. Verifications for redetermination must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time.

In the present case, DHS was unable to provide any specific evidence or failure by Claimant concerning the FAP benefit redetermination. DHS could not state with any certainty whether Claimant's FAP benefits were not redetermined because of an alleged failure to submit a Redetermination, a failure to verify information, a failure to be interviewed or some other redetermination requirement. Without any specifics in the alleged failure by Claimant in the redetermination process, all Claimant could do was summarily deny that there was a failure. Based on the presented evidence, it is found that DHS failed to establish a failure by Claimant to comply with the FAP benefit redetermination process.

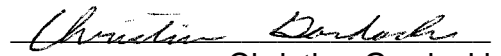
Typically, an improper failure to redetermine a client's benefits would result in an order requiring DHS to commence or restart the redetermination process. In the present case, Claimant's current DHS office has none of the redetermination documents and obtaining them could result in substantial delays. The DHS office has all of submissions concerning the 3/28/11 submitted application. Because Claimant only suffered a partial loss of 3/2011 FAP benefits and DHS already determined Claimant's FAP benefit eligibility for 3/2011, for purposes of efficiency, the below order will rely on Claimant's submissions for the 3/28/11 application rather than revisiting the redetermination process.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to redetermine Claimant's FAP benefit eligibility effective 3/2011. It is ordered that DHS

- (1) supplement Claimant for any FAP benefits not received in 3/2011 as a result of the improper failure to redetermine Claimant's FAP benefits; and
- (2) rely on the existing 3/2011 FAP benefit determination to determine the correct supplement amount for Claimant.

The actions taken by DHS are REVERSED.


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

Date Signed: July 22, 2011

Date Mailed: July 22, 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

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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 of the rehearing decision.

CG/hw

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