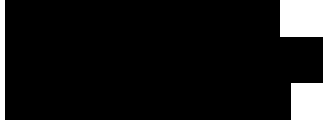


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-12119
Issue No.: 1005
Case No.: [REDACTED]
Hearing Date: February 10, 2011
Wayne County DHS (43)

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 10, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits effective 11/2010 due to Claimant's alleged failure to attend an interview and submit redetermination documents.

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 benefit recipient.
2. DHS mailed Claimant a Redetermination in 10/2010 advising Claimant to attend an interview on 11/1/2010 and requiring submission of the document to DHS.
3. Claimant failed to submit the Redetermination to DHS by 11/30/2010.
4. On 11/19/2010, DHS mailed Claimant a Notice of Case Action advising Claimant that her FIP benefits would be terminated due to the failure to attend an interview and to submit the Redetermination.

5. On 11/30/2010, Claimant requested a hearing disputing the termination of her FIP benefits.

CONCLUSIONS OF LAW

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 form for all programs. 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 FIP benefits were due for redetermination by 11/30/2010. It was not disputed that DHS mailed a Redetermination to Claimant. Claimant contended that on 11/1/10, she went to DHS to attend her interview on 11/1/10 and was told by a DHS representative that her specialist was not present. Claimant's DHS specialist testified that she was present on 11/1/10.

Claimant also contended that after being told that her specialist was not present, Claimant left her Redetermination at the front desk and date stamped a copy of it for herself; Claimant also stated that she lost the date stamped copy of her redetermination. The DHS specialist testified that she never received Claimant's allegedly submitted Redetermination.

In determining whether a client submitted a document that DHS states was never received it is difficult to determine the truth. The first evidence to consider is the testimony of each party. Parties can only testify concerning their personal knowledge. A DHS specialist can credibly testify that he or 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 not unreasonable to believe that DHS could occasionally misplace paperwork.

In weighing the value of testimony, verification of testimony is very helpful. Unfortunately, it is typically unrealistic to expect a client to verify that documents were submitted to DHS. Clients cannot be realistically expected to send every document to DHS via certified mail or with a witness. In the present case, Claimant stated that after submitting her Redetermination, she received a date stamped copy of her submission from DHS. Had Claimant submitted this document, it would have been compelling evidence to support Claimant's testimony; unfortunately for Claimant; she did not present the document because she allegedly threw it out at some point prior to the hearing.

Another factor that may be considered in determining the credibility of testimony is to look at documents submitted in preparation of the administrative hearing and gauging the consistency between the documents and corresponding testimony. Generally, testimony is more credible when it matches that person's written narrative. Claimant's Request for Hearing stated that she "returned the paperwork that was requested with the original case worker, O. Perin. Several attempt by phone." Claimant's statement debatably contradicted her testimony. Claimant testified that submitted the Redetermination to a front desk staff person. Claimant's written statement could be interpreted as a claim that the Redetermination was given to O. Perin. Though, it could also be interpreted to mean that the document was given to someone else and directed to be given to Ms. Perin. The DHS testimony and Hearing Summary were unquestionably consistent. Both indicated that Claimant failed to attend an interview and to submit a Redetermination document causing the termination of FIP benefits.

The undersigned is troubled by the fact that Claimant had the capability of verifying her testimony with a date stamped Redetermination document but that she discarded the document prior to the hearing. Though it is understandable that Claimant may not have realized the importance of the document at the time she discarded it, the undersigned has difficulty in finding favorably for Claimant when there were no obvious factors supporting her testimony. It is found that Claimant did not submit a Redetermination to DHS by 11/30/2010 and accordingly, DHS properly terminated Claimant's FIP benefits due to Claimant's failure.

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 FIP benefits effective 11/30/2010 due to Claimant's failure to submit a Redetermination.

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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.

CG/jlg

cc:

