

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.: 2011-5976
Issue No.: 3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 9, 2010
Wayne County DHS (57)

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 December 9, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED] Manager, appeared and testified.

ISSUE

Whether DHS properly failed to recertify Claimant's Food Assistance program (FAP) benefits effective 11/2010.

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.
2. Claimant's FAP benefits were scheduled to be redetermined prior to 10/31/10.
3. On 9/14/10, DHS mailed Claimant a Redetermination (Exhibit 1) informing Claimant that he had until 10/5/10 to return the Redetermination and be interviewed.
4. On 10/05/10, Claimant failed to return the Redetermination and DHS mailed a Notice of Missed Interview (Exhibit 2) giving Claimant until 10/31/10 to reschedule the interview.

5. On 10/21/10, DHS mailed Claimant a Notice of Case Action (Exhibit 3) informing Claimant that his FAP benefits would be terminated effective 11/2010.
6. On 10/25/10, upon the advice of Claimant's DHS specialist, Claimant submitted an Assistance Application to DHS and requested a hearing disputing the 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). 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 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.

In the present case, Claimant contends that he did not receive the Redetermination or the Notice of Missed Interview. It was not disputed that each of the documents listed Claimant's correct mailing address. Claimant testified that at the time of mailing (9/14/10 for the Redetermination and 10/15/10 for the Notice of Missed Interview) that Claimant was using a reliable mailing address. The undersigned is not inclined to find that DHS failed to mail documents when the documents were mailed via a seemingly reliable method, the DHS database; thus, human error would not have likely caused the documents to not be mailed. The undersigned is not inclined to find that Claimant failed to receive the documents solely on Claimant's statement of denial. For a finding that Claimant failed to receive seemingly appropriately mailed documents, some supporting evidence would be appropriate. Examples of supporting evidence would include the testimony of a household member that there ongoing mail problems or proof of communications with the United States Post Office concerning mail delivery issues. It is found that Claimant received the Redetermination and Notice of Missed Interview.

Though it is found that Claimant received all necessary redetermination documents, Claimant stated that he went to the local DHS office on 10/25/10 and submitted an Assistance Application in an attempt to meet his redetermination requirements. Claimant's testimony was persuasive concerning this issue. It is probable that Claimant went to the DHS office on 10/25/10 as that is the date that DHS received Claimant's hearing request. Claimant also provided details of a conversation with his DHS specialist on that date which would lead one to believe that he was advised by his specialist to submit an Assistance Application. DHS was unable to present the Assistance Application as it was located at another office. It is found that Claimant submitted an Assistance Application to DHS on 10/25/10.

The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. BEM 210 at 2. It is also found that Claimant's Assistance Application submitted to DHS on 10/25/10 could meet Claimant's redetermination requirements.

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.* The Redetermination form reads, "Send proof of all income your household received. Send proof of the last 30 days for employment, unemployment, social security benefits, pension etc." Income verifications are required at redetermination for FAP benefits. BEM 500 at 9.

Redetermination verifications, such as income verification, must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. *Id.* at 10. If verifications are provided by the required deadline but too late for normal benefit issuance, benefits must be issued within five workdays. *Id.* at 11.

In the present case, testimony was presented that Claimant had employment earnings. The record was not well developed concerning whether Claimant submitted proof of his income with the Assistance Application. The undersigned is required to make a finding on the limited evidence available.

Claimant testified that he submitted an Assistance Application on 10/25/10 but did not refer to any other documents when discussing his submission. When Claimant attended the DHS office on 10/25/10, his initial intent seemed to be to talk to his DHS specialist, not to submit necessary redetermination documents. He only submitted an Assistance Application to DHS based on his specialist's advice. Based on the limited evidence available, it is more likely than not that Claimant failed to submit income verification to DHS on 10/25/10 or before the end of his benefit period on 10/31/10. It is found that Claimant failed to meet a required redetermination requirement by failing to do so.

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It should be noted that Claimant credibly testified that in 11/2010 DHS returned Claimant's Assistance Application to him so that he could submit it to a more conveniently located DHS office. Though the undersigned found this procedure to be highly irregular, it would not impact Claimant's redetermination as it would not change the finding that Claimant failed to submit income verifications with his application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly failed to redetermine Claimant's FAP benefits effective 11/2010 due to Claimant's failure to submit income verifications prior to the end of his active benefits period. The actions taken by DHS are AFFIRMED

Christian Gardocki

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

Date Signed: 12/14/2010

Date Mailed: 12/14/2010

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 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 date of the rehearing decision.

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