

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.: 2011-7002
Issue No.: 3022
Case No.: [REDACTED]
Hearing Date: January 31, 2011
Wayne County DHS (98)

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 January 31, 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 Food Assistance Program (FAP) benefits effective 10/31/09 due to Claimant's alleged failure to submit documents required to recertify Claimant's benefits.

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. On 9/15/09, DHS mailed a Redetermination (DHS-1010) to Claimant.
3. On 9/23/09, Claimant timely returned a completed Redetermination to DHS.
4. DHS failed to process Claimant's Redetermination due to Claimant's alleged failure to complete the redetermination process resulting in termination of Claimant's FAP benefits on 10/31/09.
5. On 11/3/09, Claimant verified a change in shelter to DHS.

6. On 1/21/10, Claimant requested a hearing disputing the termination of FAP benefits.
7. On 1/22/10, Claimant reapplied for FAP benefits and was approved effective 1/22/10.

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 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).

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. 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 and MA benefits. BEM 500 at 9.

In the present case, Claimant's FAP benefits were due for redetermination by 10/31/2009. DHS initially contended that Claimant failed to submit a completed Redetermination. After a review of Claimant's case file, the DHS representative discovered that Claimant had timely submitted a completed Redetermination. There was not any evidence that DHS needed any other documents in order to process Claimant's benefit redetermination other than the Redetermination. DHS did not allege that Claimant failed in any other way to meet her redetermination requirements. It is found that Claimant timely submitted a Redetermination and that DHS erred in terminating Claimant's FAP benefits effective 10/31/2009.

There is no question that Claimant is entitled to a remedy of reinstated FAP benefits from the date following her last date of FAP benefits through the time Claimant reapplied and became FAP benefit eligible. Such a remedy entitles Claimant to an eligibility decision concerning FAP benefits from 11/1/09-1/21/10.

DHS is to verify shelter expenses at application and when a change is reported. BEM 554 at 11. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220 at 5. If necessary verification is not returned by the due date, DHS is to take appropriate action based on what type of verification was requested. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.* For redetermination verifications, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210 at 5.

DHS contended that in re-evaluating Claimant's FAP benefit eligibility, Claimant's 11/2009 FAP benefits should not include a credit for shelter because Claimant had not verified a shelter expense change until 11/3/09. At the hearing, the undersigned dismissed this DHS contention. After a check of DHS regulations, the DHS contention appears to be correct. DHS is to process benefit changes based on the submission date of the verifications. As stated above, if verification is returned late, the benefit increase must affect the month after the verification is returned; in this case, the benefit month to be affected would be 12/2009. Thus, when redetermining Claimant's FAP benefit eligibility, DHS may give Claimant a shelter credit for 12/2009, but not for 11/2009..

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's redetermination of FAP benefits effective 11/1/09. It is ordered that DHS shall process Claimant's FAP benefit redetermination effective 11/1/09 through 1/21/10. DHS shall supplement Claimant for any FAP benefits not issued as a result of the error. DHS shall apply their regulations in the processing of Claimant's reported shelter change to affect benefit month 12/2009. The actions taken by DHS are REVERSED.



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

Date Signed: 2/4/2011

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Date Mailed: 2/4/2011

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 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/jlg

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