

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

IN THE MATTER OF:



Reg. No.: 201234324
Issue No.: 3022
Case No.: [REDACTED]
Hearing Date: March 21, 2012
Wayne County DHS (49)

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 March 21, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and Charminique Walters, Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefit eligibility effective 1/2012 due to an alleged failure by Claimant to return 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 FAP benefit recipient.
2. Claimant's FAP benefit period was scheduled to end at the end of 12/2011.
3. On 11/22/11, DHS mailed Claimant a Notice of Case Action concerning a FAP benefit change.
4. On 11/30/11, DHS mailed Claimant a Redetermination (DHS-1010).
5. On 12/15/11, DHS mailed Claimant a Notice of Missed Interview after Claimant failed to return the Redetermination.

6. Claimant's FAP benefit eligibility ended effective 1/2012 due to Claimant's failure to return the Redetermination.
7. On 1/24/12, Claimant requested a hearing to dispute 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). 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).

There was initial confusion in determining why Claimant requested a hearing. Claimant's FAP benefits ended effective 1/2012 and she reapplied for FAP benefits on 1/24/12. DHS subsequently approved Claimant for FAP benefits and issued Claimant a pro-rated amount of FAP benefits for 1/2012. Claimant was upset after receiving a pro-rated amount of FAP benefits. However, the DHS action which Claimant disputed was the DHS failure to redetermine Claimant's FAP benefit eligibility (i.e. the FAP benefit closure) from 12/2011.

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. *Id.* at 12.

Claimant's specialist from 12/2011 testified that Claimant's FAP benefit eligibility ended after DHS failed to receive Claimant's completed Redetermination. Claimant contended that she returned the Redetermination, but the testimony presented credibility problems.

Claimant testified that she returned the Redetermination to DHS around 11/22/11 or earlier because that is when she received a Notice of Case Action informing her of a

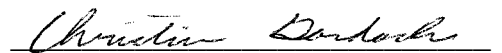
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FAP benefit change. DHS printed a history of correspondence which verified that the Redetermination was mailed to Claimant on 11/30/11. Claimant could not have returned a Redetermination to DHS prior to 11/30/11 if DHS had not yet sent her a Redetermination.

Claimant appeared to assume that because she received a Notice of Case Action on 11/22/11 that she did not need to return a Redetermination. Claimant's apparent assumption was incorrect. A likely scenario is that DHS update Claimant's FAP benefit eligibility on 11/22/2011 for some unspecified change in Claimant's circumstance; the 11/22/11 date happened to be near the date of a Redetermination mailing date but was unrelated to the required redetermination of benefits. The DHS benefit update from 11/22/11 does not justify Respondent's failure to return a Redetermination. Though Claimant seemed certain that she returned the document, she was not able to provide persuasive testimony or supporting evidence that she did. It is found that Claimant failed to timely return a Redetermination to DHS. Accordingly, it is found that DHS properly ended Claimant's FAP benefit eligibility effective 1/2012.

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 FAP benefits effective 1/2012. The actions taken by DHS are AFFIRMED.


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

Date Signed: March 22, 2012

Date Mailed: March 22, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

