

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201274574
Issue No.: 1000, 2000, 3008
Case No.: [REDACTED]
Hearing Date: October 11, 2012
County: Wayne DHS (18)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 11, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, [REDACTED], Specialist, and [REDACTED], Lead Child Support Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Food Assistance Program (FAP) benefits due to an alleged failure to verify stopped employment.

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 Medical Assistance (MA) benefit recipient.
2. On 7/30/12, Claimant applied for FAP and Family Independence Program (FIP) benefits.
3. DHS issued expedited FAP benefits to Claimant for 8/2012 while halting future eligibility pending the return of verifications.
4. On 8/2/12, DHS mailed Claimant a Verification Checklist requesting proof of stopped employment income.

5. Claimant last received employment income on approximately 6/2/12.
6. Claimant faxed verification of her stopped employment income to DHS sometime between 8/5/12-8/10/12.
7. On an unspecified date, DHS found Claimant to be uncooperative with obtaining child support for one of her children.
8. On 8/27/12, DHS terminated Claimant's eligibility for FAP benefits effective 9/2012 due to Claimant's alleged failure to verify stopped employment income and for being uncooperative with obtaining child support income.
9. On 8/27/12, DHS terminated Claimant's eligibility for MA benefits effective 9/2012 due to Claimant's alleged lack of cooperation with obtaining child support income.
10. On 8/27/12, DHS denied Claimant's application for FIP benefits due to Claimant's alleged lack of cooperation with obtaining child support income, a failure to verify income and an alleged failure to attend a Work Participation Program orientation.
11. On 8/30/12, Claimant requested a hearing to dispute the denial of FIP benefits and termination to her FAP and MA benefit eligibility.
12. Claimant no longer disputes the denial of FIP benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24.278(2). In the present case, Claimant requested a hearing, in part, to dispute a MA benefit termination due to a disqualification associated with not cooperating with child support. DHS conceded that the disqualification was improper. Soon after commencement of the hearing, the parties testified that they had reached a settlement concerning the disputed action. DHS proposed to reinstate Claimant's MA benefit eligibility effective 9/2012 subject to the finding that Claimant was cooperative with obtaining child support. Claimant accepted the DHS proposal. As the agreement appears to comply with DHS regulations, the settlement among the parties shall be accepted.

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).

Claimant also disputed a termination of FAP benefit eligibility effective 9/2012. DHS stated that the closure was due to an alleged failure by Claimant to verify stopped employment income.

DHS is to verify income at application and at redetermination. BEM 505 (10-2010), p 11. DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5-2012), p. 3. DHS must give clients at least ten days to submit verifications. *Id.* DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 2. For FAP benefits, DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it. (*Id.*, p. 5.)

DHS is to verify income that stopped within the 30 days prior to the application date, or while the application is pending before certifying the group. BEM 505 (10/2011), p. 11. Claimant stated that she is employed but stopped working in 5/2012 due to medical reasons. Claimant testified that she received her last employment pay on 6/2/12. Claimant applied for FAP benefits on 7/30/12. 6/2/12 is more than 30 days prior to Claimant's FAP benefit application date. Thus, DHS would have no reason to verify the stopped income. If DHS had no reason to verify the income stoppage, then DHS cannot terminate Claimant's FAP benefit eligibility for a failure to verify the stoppage.

For good measure, there was also evidence that Claimant complied with the DHS request. DHS provided testimony that a Verification Checklist was mailed to Claimant on 8/2/12 giving Claimant until 8/13/12 to return the verification of stopped employment income. Claimant stated that she faxed the verification to DHS between 8/5/12 and 8/10/12. Claimant was unable to provide a fax confirmation but provided sufficient details about the faxing, which bolstered her credibility. There was also evidence that Claimant faxed the document to the attention of a specialist that DHS stated was no longer assigned to Claimant's case. This would increase the likelihood that DHS may have misdirected Claimant's fax. Based on the presented evidence, it is found that Claimant complied with the DHS request.

It was found that the DHS request for verification of Claimant's stopped employment income was improper because DHS sought to verify an income stoppage older than 30 days. It was also found that Claimant complied with the DHS request. Based on either finding, the DHS termination of Claimant's FAP benefit eligibility is found to be improper.


DECISION AND ORDER

The Administrative Law Judge, based upon Claimant's testimony that she no longer disputes a denial of FIP benefits stemming from an application dated 7/30/12, finds that no dispute exists concerning FIP benefit eligibility. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's eligibility for FAP and MA benefits effective 9/2012. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit eligibility effective 9/2012, subject to the finding that Claimant was not uncooperative with obtaining child support;
- (2) reinstate Claimant's FAP benefit eligibility effective 9/2012, subject to the findings that DHS had no basis to verify Claimant's stopped employment and that Claimant verified the stoppage in employment; and
- (3) supplement Claimant for any benefits not issued as a result of the improper DHS case actions.

The actions taken by DHS are REVERSED.


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

Date Signed: 10/19/2012

Date Mailed: 10/19/2012

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)

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,
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- 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 at

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

CG/hw

cc:

