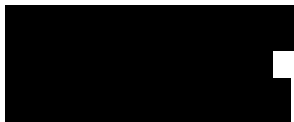


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 20126253
Issue No. 3022
Case No. [REDACTED]
Hearing Date: November 30, 2011
Wayne County DHS (17)

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 November 30, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits due to an alleged failure to complete documents associated with a benefit redetermination one month after Claimant completed FAP benefit 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 was also a recipient of Medical Assistance (MA) benefits.
3. In approximately 8/2011, Claimant completed a Semi-Annual Contact Report and submitted other necessary documents which resulted in continued FAP benefits for six more months.
4. In 9/2011, DHS scheduled a redetermination for Claimant's ongoing MA benefits.

5. Claimant allegedly failed to complete a portion of the 9/2011 redetermination documents.
6. As a result of Claimant's alleged failure to complete redetermination documents in 9/2011, DHS terminated Claimant's FAP and MA benefits effective 10/2011.
7. On 10/13/11, Claimant reapplied for FAP and MA benefits.
8. DHS processed Claimant's application dated 10/13/11 which resulted in no lapse in MA benefits but restarted FAP benefits starting 10/13/11 resulting in a period from 10/1/11-10/12/11 for which Claimant was not eligible for FAP benefits.
9. On 10/13/11, Claimant requested a hearing to dispute the termination of FAP benefits effective 10/1/11 which resulted in a loss of benefits to Claimant from 10/1/11-10/12/11.

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).

The controlling DHS regulations are those that were in effect as of 10/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

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.

Redetermination of active programs may be necessary to align dates to simultaneously process redeterminations for multiple programs BAM 210 at 5. For FAP benefits, when a redetermination is scheduled early, FAP benefits cannot be terminated prior to the end of the benefit period for failure to complete the redetermination process. *Id.* at 6.

The evidence indicated that DHS scheduled a redetermination for Claimant's ongoing FAP benefits in 8/2011. This was deduced based on Claimant's completion of a Semi-Annual Contact Report which is required at the six month point of a 12 month FAP benefit period. DHS stated that Claimant completed the necessary documentation in 8/2011 to extend the FAP benefit period for six months, presumably until approximately 2/2012.

DHS testified that Claimant was sent additional redetermination documents in 9/2011 concerning FAP and MA benefits. DHS further testified that Claimant failed to return all of the necessary documents in 9/2011 (Claimant disputed this) and the alleged failure resulted in a termination of FAP and MA benefits. DHS speculated that the 9/2011 redetermination concerning FAP was an early redetermination that was necessary to align the end date with other programs (i.e. MA and FAP would both have 9/2012 benefit period end dates rather than different end dates).

Accepting the evidence as accurate, it is known that the FAP benefit termination was improper. Even accepting the testimony that Claimant failed to fully complete redetermination documents in 9/2011 for FAP benefits, DHS may not end a FAP benefit period due to a failure to comply with an early redetermination request.

It was not disputed that Claimant reapplied for FAP and MA benefits on 10/13/11. Claimant was approved for MA benefits for all of 10/2011 which resulted in no loss of MA benefits to Claimant. The FAP benefits were issued starting from 10/13/11 resulting in a loss of FAP benefits to Claimant from 10/1/11-10/12/11. Thus, that is the period for which Claimant is entitled to a remedy.

DECISION AND ORDER

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

- (1) reinstate Claimant's FAP benefits effective 10/1/11; and
- (2) supplement Claimant for any benefits lost as a result of the improper benefit termination.

20126253/CG

The actions taken by DHS are REVERSED.



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

Date Signed: 12/7/11

Date Mailed: 12/7/11

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,
 - 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:



20126253/CG

