

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

IN THE MATTER OF:



Reg. No.: 201262748
Issue No.: 3008; 4000
Case No.: [REDACTED]
Hearing Date: September 5, 2012
County: Wayne DHS (55)

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 September 5, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether Claimant timely requested a hearing to dispute a termination of State Disability Assistance (SDA) from 2/2012.

The second issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits following Claimant's failure to submit a New Hire form.

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 SDA and FAP benefit recipient.
2. On an unspecified date in 2/2012, DHS mailed Claimant a notice of a termination of SDA benefits due to an alleged failure by Claimant to submit redetermination documents.
3. On an unspecified date, Claimant began new employment.

4. On an unspecified date, DHS mailed Claimant a New Hire Notice requesting information of Claimant's new employment.
5. On 6/11/12, DHS initiated termination of Claimant's FAP benefit eligibility effective 7/2012 due to the failure by Claimant to timely return the New Hire Notice.
6. On 6/26/12, Claimant requested a hearing to dispute the terminations of FAP and SDA benefits.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (8/2012), p. 4. Claimant requested a hearing, in part, to dispute a termination of SDA benefits effective 3/2012. Claimant conceded that the written notice of the SDA termination was sent by DHS in 2/2012. Claimant's hearing request was submitted on 6/26/12, more than 90 days after the DHS notice could have been mailed. Thus, Claimant failed to timely request a hearing on the SDA termination.

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 Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (4/2012), p. 1. New Hires is a daily data exchange with Michigan Department of Treasury. *Id.* New Hires information is used to determine current income sources for active DHS clients. *Id.* If a SSN match is found on Bridges and the New Hires database, a New Hires match is created if there is no earned income reflected in Bridges. *Id.*

When a New Hire hit is made, DHS specialists are to contact the client immediately if the employment has not been previously reported. *Id.* The specialist is then to request verification by generating a DHS-4635, New Hire Notice, from Bridges. *Id.* When a DHS-4635 is requested, Bridges (the DHS database) automatically gives the client 10 calendar days to provide verification from the date the forms were requested. *Id.* If verifications are not returned by the 10th day, the case will close for a minimum of 30

days after appropriate actions are taken in Bridges, unless the client returns verifications. *Id.*

Claimant's only contention was that he did not receive the New Hire Client Notice; thus, Claimant contended that he could not return to DHS what he did not receive. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

DHS is known to mail documents through their computer system, Bridges, thereby reducing the possibility of human error. The New Hire Notice was not presented but it was assumed that DHS mailed the document based on the reliability of the DHS mailing system. Claimant also assumed the proper mailing and noted that his residency in a homeless shelter and the unreliability of the mail at the shelter led to him not receiving the document. It should be noted that even if it is found that Claimant did not receive the New Hire Notice because of mail delivery problems at the homeless shelter where he resided, this does not necessarily lead to a conclusion that the FAP benefit termination was improper. For purposes of this decision, Claimant's testimony about not receiving the New Hire Notice was credible and will be accepted.

It was not disputed that DHS mailed a Notice of Case Action to Claimant on 6/11/12 informing Claimant of the FAP benefit termination. The notice should have spurred Claimant to contact his DHS specialist for an explanation of the benefit closure. Claimant conceded that he did not contact DHS after initially receiving the FAP closure notice; Claimant stated he requested a hearing instead. An administrative hearing is appropriate for disputing a DHS action, but it is not a medium intended to replace communication between a client and a specialist. Had Claimant contacted DHS, he might have resolved the matter without any benefit closure. As it is, it can only be considered whether there was some failure by DHS in processing the FAP benefit case closure. Based on the presented evidence, there appears to be no such errors.

Based on Claimant's testimony, Claimant submitted a replacement New Hire Notice to DHS in either late 7/2012 or early 8/2012. Had the New Hire Notice been submitted to DHS by 6/22/12 (the last date FAP benefit eligibility was active), Claimant's FAP benefit eligibility should have been extended. However, a 7/2012 or later submission is simply too late to justify a reinstatement of FAP benefit eligibility. Based on the presented evidence, it is found that DHS properly terminated Claimant's FAP benefit eligibility, effective 7/2012, based on Claimant failure to timely submit a New Hire Notice. As discussed during the hearing, Claimant should reapply for FAP benefits if there is still a need for the benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant's hearing request dated 6/26/12 was not timely submitted

concerning a termination of SDA benefits effective 2/2012. Accordingly, 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 properly terminated Claimant's FAP benefit eligibility effective 7/2012, due to Claimant's failure to timely return a New Hire Notice. The actions taken by DHS are AFFIRMED.



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

Date Signed: September 10, 2012

Date Mailed: September 10, 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,
 - 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:

