

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201313251
Issue No.: 2006, 3022
Case No.: [REDACTED]
Hearing Date: February 6, 2013
County: Wayne DHS (82)

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 February 6, 2013, from Detroit, Michigan. Participants included [REDACTED] Claimant's authorized hearing representative. The Department of Human Services (DHS) failed to participate in the hearing despite multiple attempts to enlist their participation.

ISSUE

The issue is whether DHS properly terminated Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefit eligibility due to a failure to submit 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 MA and FAP benefit recipient.
2. On an unspecified date, DHS mailed Claimant a Redetermination.
3. Claimant failed to return the Redetermination to DHS.
4. On an unspecified date, DHS terminated Claimant's FAP and MA benefit eligibility.
5. On 11/19/12, Claimant's AHR requested a hearing to dispute the FAP and MA benefit terminations.

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).

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).

Despite many telephone calls to DHS, DHS failed to participate in the hearing. The hearing was held in the absence of a DHS representative.

Claimant's AHR requested a hearing to dispute a FAP and MA benefit termination. Claimant's AHR testified that the terminations were effective 9/2012, though this was not verified. Claimant's AHR testified that the benefit terminations were caused by an issue concerning benefit redetermination.

DHS must periodically redetermine an individual's eligibility for active benefit programs. BAM 210 (5/2012), p. 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.*, p. 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.*, p. 12.

The AHR testified that Claimant's case "runs from September to September". According to the AHR, DHS mailed the Redetermination one month later than it should have been mailed.

Claimant's AHR also testified that she told her mother's specialist that she did not want the specialist as her mother's worker because the specialist was a "Medicaid Waiver Specialist". The Claimant's AHR assumed that her mother was waiving Medicaid benefits because her specialist's job title included the words "Medicaid" and "waiver".

Claimant's AHR repeatedly testified that Claimant's specialist was affiliated with "[REDACTED]". The testimony was confusing because it was thought that the AHR was referring to the auto insurance company. The AHR also referred to the "[REDACTED]". After some initial confusion, it is now presumed that the AHR intended to refer to the "[REDACTED]" when she mentioned "[REDACTED]".

The AHR testified that she does not want to be affiliated with the "[REDACTED]". Claimant's AHR testified that she said "I will not do a redetermination that is associated with the "[REDACTED]". Presumably, this statement was also made to her DHS specialist.

Based on the testimony of Claimant's AHR, it can be found that she refused to submit a Redetermination or corresponding documents because of the combination of: the date of Redetermination mailing, the title of the DHS specialist and the affiliation between DHS and "[REDACTED]".

A redetermination mailing date might excuse a failure to return the redetermination if DHS mailed the form earlier than expected. In the present case, DHS mailed the document later than expected. Even accepting that the form was mailed late by DHS, Claimant's AHR's refusal to complete and return the form was a wholly inappropriate response.

Claimant's specialist's job title is utterly irrelevant to Claimant's benefit determination. The AHR claim that DHS attempted to get her mother to waive MA benefits is based on her own irrational conclusions.

The AHR alluded to a history between her mother and "[REDACTED]" her mother was "dropped" as a client. It is plausible that the AHR had negative experiences with "[REDACTED]" in the past. Nevertheless, a client may not dictate how DHS chooses to identify their employees or with what agencies they affiliate.

Claimant's AHR wanted to be heard. She may not feel that she was adequately heard because she ceased participation in the hearing at a point when there was no constructive communication in the hearing. Despite the premature conclusion to the hearing, Claimant's AHR provided adequate information for a decision. The AHR contended that she justifiably refused to complete redetermination documents. The AHR refusal was unreasonable. Accordingly, the FAP and MA benefit terminations are found to be proper.

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 and MA benefit eligibility, effective 9/2012. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: 2/12/13

Date Mailed: 2/12/13

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:



