

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201326544
Issue No.: 3022
Case No.: [REDACTED]
Hearing Date: February 28, 2013
County: Wayne 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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 28, 2013 from Detroit, Michigan. Participants included the above-named claimant. Claimant listed an authorized hearing representative (AHR) on her hearing request but stated, on the record, that she wished to proceed without an AHR. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefit eligibility due to Claimant's 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 FAP benefit recipient.
2. The last month of Claimant's FAP benefit period was 11/2012.
3. On an unspecified date, DHS mailed Claimant a Redetermination.
4. Claimant failed to return the Redetermination.
5. On 11/7/12, Claimant applied for FIP benefits by submitting an Assistance Application.

6. On 11/30/12, Claimant's FAP benefit period expired without a redetermination of FAP benefits.
7. On 1/16/13, Claimant requested a hearing to dispute the expiration of her FAP benefit period.

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).

DHS must periodically redetermine an individual's eligibility for active benefit programs. BAM 210 (11/2012), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.*

The redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.*, p. 5. For FAP, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.*, p. 3. If the client does not complete the redetermination process, DHS is to allow the benefit period to expire. *Id.* The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, DHS-2063B, Food Assistance Benefits Redetermination Filing Record, or other redetermination document. 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.

In the present case, it was not disputed that Claimant failed to return a Redetermination to DHS prior to the end of her FAP benefit period. Claimant responded that she did not receive the Redetermination because DHS mailed the form to an obsolete address. Much of the hearing was devoted to determining whether Claimant timely informed DHS of a change in address. However, the issue of whether Claimant's FAP benefit period properly ended can be decided for a separate reason.

DHS ended Claimant's FAP benefit eligibility solely based on a failure to submit a Redetermination. DHS failed to consider that Claimant submitted an Assistance Application to DHS. DHS noted that Claimant submitted the Assistance Application in an effort to gain cash benefit eligibility. Claimant's motives for the application submission are irrelevant. The bottom line is that DHS had documentation from Claimant that met DHS' redetermination requirements. DHS should have used the Assistance Application to evaluate Claimant's cash benefit eligibility and to redetermine

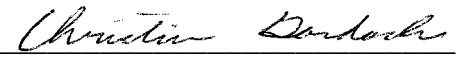
Claimant's FAP benefit eligibility. The failure by DHS to do so makes the FAP benefit termination improper.

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 benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FAP benefit eligibility, effective 12/2012, subject to the finding that Claimant's met her FAP benefit redetermination requirements by submitting an Assistance Application dated 11/7/12; and
- (2) initiate supplement of any benefits not issued as a result of the improper FAP benefit termination.

The actions taken by DHS are REVERSED.


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

Date Signed: 3/5/2013

Date Mailed: 3/5/2013

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

201326544/CG

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

CG/hw

cc:

