

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201327951
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: March 13, 2013
County: Oakland DHS (02)

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 March 13, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] and [REDACTED] testified on behalf of Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On 11/1/12, Claimant applied for Medical Assistance (MA), State Disability Assistance (SDA) and FAP benefits.
2. Claimant's only basis for MA and SDA benefit eligibility was to be determined to be a disabled individual.
3. At the time of Claimant's application, Claimant resided in a group living facility.

4. On 11/15/12, DHS denied Claimant's FAP benefit application due to his residency in a group living facility.
5. On 1/8/13, DHS determined Claimant was not a disabled individual and mailed Claimant a Notice of Case Action denying MA and SDA benefits.
6. On 1/15/13, Claimant requested a hearing disputing the denial of SDA, MA and FAP benefits.
7. Claimant conceded that the FAP benefit denial was proper.

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 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).

Claimant's mom, and AHR, testified that she was primarily concerned with obtaining MA and cash assistance for her son. It was not disputed that Claimant's only chance for MA or SDA eligibility was to be found disabled by DHS. The 3/13/13 hearing was scheduled to resolve only the FAP benefit dispute. As it happened, DHS split Claimant's hearing request into two disputes, one concerning FAP, and one for MA and SDA. Claimant attended the hearing ready to present a case of disability. Hearing requests are processed differently based on the programs in dispute.

The State Hearing Review Team (SHRT) reviews the Medical Review Team's (MRT) decision when a hearing request disputes the MRT denial of the client's claim of disability/blindness. BAM 600 (2/2013), p. 22. The hearings coordinator forwards hearing requests disputing MRT decisions to MAHS as for all other requests. *Id.* MAHS registers the request and schedules a hearing to be held in approximately 30 days. *Id.* For FAP only, the Michigan Administrative Hearings System has 35 days to schedule and conduct a hearing, render a decision and mail it. *Id.*, p. 7.

DHS presented evidence that the MA/SDA dispute is not ripe for a hearing because SHRT has yet to determine the issue of Claimant's disability. Based on the present circumstances, the hearing from 3/13/13 was appropriately limited to a FAP benefit dispute. If Claimant's disputes were not split, Claimant would have to wait for SHRT's evaluation of MA/SDA before getting a FAP benefit hearing. As noted by the above 35

day deadline, FAP benefit hearings receive scheduling priority. Accordingly, Claimant's MA and SDA benefit disputes will have to await for SHRT review prior to scheduling a hearing.

The below order affirms the DHS processing of Claimant's hearing request concerning the MA/SDA application denial. The order is limited to affirming DHS' actions, thus far. DHS is still required to make a SHRT decision and schedule the matter for hearing if SHRT denies Claimant's claim of disability. As noted above, if SHRT denies the disability claim, an MA/SDA hearing will be scheduled within 30 days.

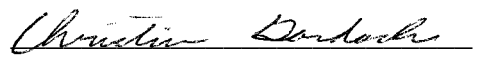
The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *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 requested a hearing to dispute a FAP benefit application denial. It was not disputed that DHS denied Claimant's application due to his status as a group living facility resident. Claimant's AHR testified that she now understood and accepted the actions taken by DHS. Claimant's AHR also testified that she did not wish to proceed with a hearing concerning the FAP benefit denial. DHS did not object to the dismissal of Claimant's hearing request. Pursuant to MAC R 400.906(1), Claimant's hearing request concerning a FAP benefit dispute is dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon Claimant's withdrawal of a FAP benefit dispute and pursuant to MAC R 400.906(1), orders Claimant's hearing request to be PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS is properly processing Claimant's hearing request concerning MA and SDA benefit eligibility. The actions taken by DHS are PARTIALLY AFFIRMED.


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

Date Signed: 3/20/2013

Date Mailed: 3/20/2013

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

CG/hw

cc:

