

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201338441
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: May 1, 2013
County: Oakland DHS (04)

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 May 1, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefit eligibility due to a failure by Claimant to report an updated address.

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. On an unspecified date, DHS received notice from the United States Post Office that Claimant's last reported address was an undeliverable address.
3. On 2/26/13, DHS mailed Claimant a Verification Checklist requesting Claimant's updated address.
4. On 3/18/13, DHS initiated termination of Claimant's FAP benefit eligibility, effective 4/2013, based on Claimant's failure to update her address.
5. On 3/27/13, Claimant's requested a hearing to dispute the FAP benefit termination.

6. On 3/29/13, Claimant updated her address with DHS when she reapplied for FAP benefits.

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).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that the request noted that Claimant required special arrangements to participate in the administrative hearing. Claimant testified that she thought that it would be difficult to attend the hearing because of the lengthy distance from her house to the hearing location. Claimant had no other special arrangement requirements. Claimant was informed that she may request to participate in future hearings via telephone.

The present case concerns a termination of FAP benefits due to Claimant's alleged failure to report an updated address. It was not disputed that Claimant moved and failed to report an updated address to DHS prior to 3/18/13, the date that DHS initiated termination of Claimant's FAP benefit eligibility. It was disputed whether Claimant had additional time to report an updated address to DHS.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220 (11/2012), p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.*, pp. 4-5. The action is pended to provide the client a chance to react to the proposed action. *Id.* Bridges automatically calculates the negative action date. *Id.*, p. 9. The negative action date on Bridges is the day after the timely hearing request date on the Bridges notice of case action. *Id.*

In the present case, the timely hearing request date was 3/29/13 (see Exhibit 5). Thus, Claimant had until 3/29/13 to correct her failure to report an updated address to DHS. As it happened, Claimant submitted an Assistance Application to DHS on 3/29/13 which listed Claimant's updated address. The fact that Claimant reported an updated address in a benefit application was confirmed in an email (Exhibit 4) from the specialist that received the application to the specialist that initiated the benefit termination. DHS should have rescinded the pending termination based on the updated address information; because they did not, the closure of Claimant's FAP benefit eligibility was improper.


It should be noted that DHS also should have ceased the threatened benefit termination based on Claimant's timely hearing request. The issue is moot, as DHS will have to supplement Claimant for the improper termination.

DECISION AND ORDER

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

- (1) reinstate Claimant's FAP benefit eligibility, effective 4/2013, subject to the finding that DHS received notice of Claimant's updated address prior to case closure; and
- (2) supplement Claimant for any FAP benefits not issued as a result of the improper termination.

The actions taken by DHS are REVERSED.


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

Date Signed: 5/8/2013

Date Mailed: 5/8/2013

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.

201338441/CG

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:

