

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201341054
Issue No.: 3022
Case No.: [REDACTED]
Hearing Date: May 13, 2013
County: Wayne DHS (19)

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 13, 2013 from Detroit, Michigan. Participants included the above-named claimant. 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 3/2013.
3. On 2/12/13, DHS mailed Claimant a Redetermination.
4. On 3/29/13, Claimant faxed the Redetermination to DHS.
5. DHS received Claimant's fax on 3/29/13 at 8:15 p.m.
6. Claimant's FAP benefit period expired at the end of 3/2013 without a redetermination of FAP benefits.

7. On 4/9/13, Claimant requested a hearing to dispute the expiration of 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).

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 an Assistance Application (DHS-1171), Redetermination (DHS-1010), Filing Form (DHS-1171), Food Assistance Benefits Redetermination Filing Record (DHS-2063B) 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.

It was not disputed that Claimant faxed a Redetermination (Exhibits 1-4) to DHS on 3/29/12. Claimant testified that he faxed the document prior to 3:00 p.m. but the document noted a fax time of 8:05 p.m., well after the close of business for DHS. Claimant testified credibly concerning the time that he faxed the Redetermination but it was not so persuasive to justify disregarding the time noted on the fax itself. It is found that DHS received Claimant's fax after the close of business on 3/29/13.

Verifications are considered to be timely if received by the date they are due. BAM 130 (5/2012), p. 5. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. *Id.* Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day. *Id.*, p. 6. Based on this policy, the date of submission for a fax is the date of faxing, even if the faxing occurs after the close of business. Accordingly, it is found that Claimant submitted the Redetermination to DHS on 3/29/13. Though Claimant "timely" submitted redetermination documents, thought was given to Claimant's failure to be interviewed as a basis for termination.

DHS must conduct a telephone interview at redetermination before determining ongoing eligibility. BAM 210 (7/2010), p. 3. It should be noted that DHS policy requires that DHS specialists interview clients following a Redetermination submission.

Given the present facts, there was no conceivable way that Claimant could have been interviewed prior to the end of 3/2013 for a FAP benefit redetermination. As it happened, Claimant submitted a Redetermination to DHS on a Friday evening; the next time DHS would open would be 4/2013.

The group loses their right to uninterrupted FAP benefits if they fail to do any of the following:

- File the FAP redetermination by the timely filing date.
- Participate in the scheduled interview.
- Submit verifications timely, provided the requested submittal date is after the timely filing date.

BAM 210 (7/2010), p. 12-13.

Any of the above reasons can cause a delay in processing the redetermination. *Id.*, p. 13. When the group is at fault for the delay, DHS has 30 days to complete the redetermination. *Id.* If there is no refusal to cooperate and the group complies by the 30th day, issue benefits within 30 days. *Id.* Benefits are not prorated. *Id.*

Based on the above policy, DHS had 30 days following 3/29/13 to interview Claimant and process Claimant's FAP benefit eligibility. In the present case, no attempts were made to interview Claimant because it was believed that Claimant's Redetermination submission was untimely. Based on the presented evidence, DHS improperly failed to process Claimant's redetermination.

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 4/2013, subject to the finding that Claimant timely submitted a Redetermination;
- (2) initiate processing of Claimant's Redetermination including allowing Claimant to schedule an interview for FAP benefit redetermination; and
- (3) 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: 5/21/2013

Date Mailed: 5/21/2013

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:

