

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-69777
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: October 23, 2013
County: Wayne (98)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. After due notice, a telephone hearing was held on October 23, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether Claimant properly requested a rehearing or reconsideration of a prior administrative decision.

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 [REDACTED]/13, DHS reduced Claimant's FAP benefit eligibility to \$16, effective [REDACTED]/2013.
2. On [REDACTED]/13, Claimant requested a hearing to dispute the FAP benefit reduction.
3. On [REDACTED]/13, an administrative hearing was held.
4. On [REDACTED]1/13, an administrative decision affirmed the reduction of FAP benefits.
5. On [REDACTED]/13, Claimant submitted a Request for Hearing tied to a DHS action dated [REDACTED]/13.

6. Claimant requested the hearing to dispute alleged perjury committed by DHS at the administrative hearing from [REDACTED]/13.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant submitted a Request for Hearing to DHS on [REDACTED]/13. Claimant wrote the request on a form tied to a DHS action taken on [REDACTED]/13. Claimant testified that he did not request a hearing to dispute an action taken by DHS on [REDACTED]/13. Claimant testified that his intent was to dispute statements made by DHS in a previous administrative hearing held on [REDACTED]/13. Essentially, Claimant wanted a second hearing concerning a dispute previously decided by administrative hearing.

A rehearing is a full hearing, which is granted when the original hearing record is inadequate for purposes of judicial review or there is newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision. BAM 600 (7/2013), p. 33.

A reconsideration is a paper review of the facts, law and any new evidence or legal arguments. *Id.* It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is not necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues raised in the hearing request. *Id.*

DHS provides for a specific procedure to request a rehearing or reconsideration. A written request made by the client, must be faxed to (517) 335-6088 (Attention: MAHS Client Requested Rehearing/Reconsideration). *Id.*, p. 34.

Claimant should have followed the procedures outlined above and mirrored on the original hearing decision if a new hearing was sought. Claimant may not request a rehearing and/or reconsideration using the same method to request a hearing. Claimant's hearing request to dispute a previously decided issue is appropriately dismissed due to a lack of jurisdiction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant improperly requested rehearing and/or reconsideration of a

dispute already decided by administrative decision. Claimant's hearing request is DISMISSED.



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

Date Signed: 10/31/2013

Date Mailed: 10/31/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CG/hw

cc:

