

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201316112
Issue No.: 2006, 3022
Case No.: [REDACTED]
Hearing Date: February 6, 2013
County: Oakland DHS (03)

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 6, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) due to an alleged Claimant failure to return 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 and MA benefit recipient.
2. Claimant's FAP benefit eligibility was scheduled to expire 8/2012.
3. Claimant's MA benefit eligibility was scheduled to expire 9/2012.
4. On 7/16/12, DHS mailed Claimant a Redetermination with a due date of 8/7/12.
5. On an unspecified date, Claimant mailed the Redetermination to DHS.

6. On 8/7/12, DHS mailed Claimant a Notice of Missed Interview informing Claimant of a potential FAP benefit termination to be effective 8/31/2012.
7. On 9/17/12, DHS mailed Claimant a Notice of Case Action informing Claimant of a termination of MA benefits.
8. On 9/28/12, Claimant requested a hearing to dispute the termination of FAP and MA benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. Department policies are contained in the Bridges Administrative Manual (BAM) and the Bridges Eligibility Manual (BEM).

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 present case concerns a termination of FAP and MA benefits. DHS stated that the benefit terminations occurred due to Claimant's alleged failure to submit redetermination documents.

DHS must periodically redetermine an individual's eligibility for active benefit programs. BAM 210 (5/2012), p. 1. A complete redetermination is required at least every 12 months. *Id.*

The redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.*, p. 4. The packet consists of forms and requests for verification that are necessary for DHS to process the redetermination. The forms needed for redetermination may vary, though a Redetermination (DHS-1010) is an acceptable review form for all programs. 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.

Claimant testified that he received the Redetermination, completed the form and mailed it to DHS shortly after he received it. Claimant had no verification of the submission to DHS.

DHS presented testimony denying receipt of Claimant's completed Redetermination. The testimony was from a supervisor who would not have directly received the Redetermination. Claimant's former specialist was not available to testify concerning whether the Redetermination was received. DHS also acknowledged that Claimant's specialist was on a leave of absence at the time that the Redetermination would have been returned by Claimant. DHS conceded the specialist's absence increases the likelihood that a returned document was misdirected.

It is known that Claimant requested a hearing on 9/28/12; eleven days after DHS mailed Claimant notice of the benefit termination. Generally, requesting a hearing shortly after receiving notice of a benefit termination is consistent with a client that is attentive to returning documents.

DHS initially contended that Claimant's hearing request was received by the DHS office on 11/30/12. At the hearing, Claimant presented a hearing request with a DHS date stamp of 9/28/12. The evidence was persuasive evidence that Claimant submitted a hearing request to DHS on 9/28/12. If DHS did not process Claimant's hearing request dated 9/28/12, it is reasonable to suspect that DHS might have also misplaced Claimant's redetermination documents.

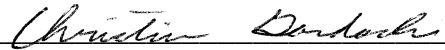
Based on the presented evidence, it is found that Claimant timely submitted FAP and MA benefit redetermination documents. Accordingly, the DHS termination of FAP and MA benefits is found to be improper.

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 and MA benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FAP benefit eligibility, effective 9/2012, subject to the finding that Claimant timely returned redetermination documents to DHS;
- (2) reinstate Claimant's MA benefit eligibility, effective 10/2012, subject to the finding that Claimant timely returned redetermination documents to DHS;
- (3) initiate supplement of any benefits not issued as a result of the improper FAP and MA benefit terminations.

The actions taken by DHS are REVERSED.


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

Date Signed: 2/12/13

Date Mailed: 2/12/13

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:

