

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201317546
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 22, 2013
County: Wayne DHS (76)

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 January 22, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Supervisor.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) eligibility after Claimant complied with a request for verifications prior to the effective date of case closure.

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 11/29/12, DHS mailed Claimant a Verification Checklist (VCL) (Exhibits 1-2) requesting verification of: checking account, vehicle ownership, savings account, residence and vehicle value.
3. The VCL gave Claimant until 12/10/12 to timely return the requested verifications.
4. On 12/12/12 DHS mailed Claimant a Notice of Case Action (Exhibits 3-4) initiating termination of Claimant's FAP benefit eligibility, effective 1/2013, due to Claimant's failure to return requested verifications.

5. The Notice of Case Action had a 12/26/12 effective date of closure.
6. On 12/17/12, Claimant submitted all requested items to DHS.
7. DHS did not stop the pending termination of Claimant's FAP benefit eligibility.
8. On 12/17/12, Claimant requested a hearing to dispute the FAP benefit termination.

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). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), p. 5. DHS must give clients at least ten days to submit verifications. *Id.* DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2. For FAP benefits, DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it.

Id., p. 5.

On 11/29/12, DHS mailed Claimant a Verification Checklist (Exhibits 1-2) requesting various items including a checking account statement, savings account statement and proof of vehicle ownership. All items are relevant to Claimant's FAP benefit eligibility. When Claimant failed to meet the VCL due date of 12/10/12, DHS properly initiated termination of Claimant's FAP benefit eligibility.

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 pending to provide the client a chance to react to the proposed action. *Id.* Bridges automatically calculates the negative action date. *Id.* at 9. The negative action date on Bridges is the day after the timely hearing request date on the Bridges notice of case action. *Id.*

DHS contended that once a client fails to return verifications by the VCL due date, case closure is inevitable. The DHS contention is contradictory to DHS policy.

As noted above, the purpose for a pending negative action is to give a client the “chance to react to the proposed action”; this implies that clients have an opportunity to correct the reason for closure. If clients were not allowed to correct a previous verification failure during a negative action period, pending the negative action appears to be pointless. Presumably, DHS would not have a pointless policy.

It is also presumed that DHS would craft policies to make procedures easier for clients and specialists. If DHS policy was interpreted as DHS contends, Claimant would be forced to reapply for benefits by completing a multi-page application, DHS would be required to re-interview Claimant, DHS would have to re-request needed verifications from Claimant, Claimant would have to re-return all requested verifications and DHS would have to redetermine Claimant’s benefit eligibility. In the present case, DHS possessed Claimant’s verifications during a time that Claimant’s case was open; DHS could have easily redetermined Claimant’s ongoing eligibility any other steps. This outcome appears to be the easiest for DHS and the most beneficial to Claimant.

DHS argued that Bridges, the DHS database, does not allow DHS to keep a case open once a negative action is pending. The DHS argument is irrelevant because the correctness of DHS actions is based on policies, not what Bridges can or cannot do. The DHS argument also appears to contradict DHS policy.

Negative actions must be deleted from Bridges in some situations. BAM 220 (11/2012), p. 10. Under a section titled “Requirement met before a Negative Action Effective Date”, DHS policy directs specialists to enter the information the client provided to meet the requirement that caused the negative action, and then to follow additional steps to delete the negative action. *Id.* This policy contradicts the DHS argument that Bridges does not allow the stoppage of a pending negative action. Further, the policy mandates that DHS delete a negative action (i.e. case closure) when a client becomes compliant during a negative action period; these are the very circumstances of the present case.

In this case, Claimant responded to the 12/12/12 notice of FAP benefit termination by submitting all of the previously requested items to DHS on 12/17/12. Claimant’s compliance with the VCL on 12/17/12 should have resulted in a stoppage of the FAP benefit termination because the compliance occurred prior to the 12/26/12 effective date of the DHS action. Despite Claimant’s compliance prior to the effective negative action date, DHS did not stop the FAP benefit termination. Accordingly, it is found that DHS erred in terminating Claimant’s FAP benefit eligibility.


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 eligibility for FAP benefits. It is ordered that DHS:

- (1) reinstate Claimant’s FAP benefit eligibility effective 1/2013;

- (2) process Claimant's ongoing FAP benefit eligibility subject to the finding that Claimant timely submitted all necessary verifications for FAP benefit eligibility; and
- (3) supplement Claimant for any FAP benefits not received 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: January 24, 2013

Date Mailed: January 24, 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 to:

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

CG/hw

cc:

