

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201331870
Issue No.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: March 27, 2013
County: Oakland DHS (02)

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 March 27, 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 Medical Assistance (MA) and Food Assistance Program (FAP) eligibility due to a failure to verify employment.

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 MA and FAP benefit recipient.
2. On 1/30/13, DHS mailed Claimant a New Hire Client Notice concerning unbudgeted employment income for Claimant.
3. DHS gave Claimant until 2/11/13 to return the New Hire Client Notice.
4. On 2/13/13, DHS initiated termination of Claimant's FAP and MA benefit eligibility, due to a failure to report new employment.
5. On 2/15/13, Claimant submitted a Verification of Employment to DHS.

6. The Verification of Employment provided submitted by Claimant covered all information required by the New Hire Client Notice.
7. On 2/21/13, Claimant requested a hearing to dispute the FAP and MA benefit terminations.
8. On approximately 2/26/12, Claimant's FAP and MA benefit eligibility stopped, effective 3/2013, due to an alleged failure by Claimant to verify employment.

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).

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).

New Hires is a daily data exchange with Michigan Department of Treasury. BAM 807, p. 1. New Hires information is used to determine current income sources for active DHS clients. *Id* If verifications are not returned by the 10th day, the case will close for a minimum of 30 days after appropriate actions are taken in Bridges, unless the client returns verifications.

DHS terminated Claimant's ongoing benefits, due to Claimant's alleged failure to return a New Hire Client Notice. Claimant testified that she could not remember whether she submitted the form to DHS. As it happened, Claimant submitted a Verification of Employment to DHS. DHS could not point to any information on the New Hire Client Notice which was not verified by Verification of Employment. DHS should have honored the Verification of Employment as an acceptable substitute for the New Hire Client Notice Form.

It was not disputed that DHS initiated closure of Claimant's case on 2/13/13, and that Claimant submitted a Verification of Employment to DHS on 2/15/13. DHS alternatively justified the case closure by contending that Claimant's Verification of Employment submission was too late because it occurred following the Notice of Case Action mailing. It must be determined whether DHS should have stopped the pending closure because of the submission of the Verification of Employment.

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.* 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.*

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 did not allow clients to correct shortcomings during a negative action period, 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 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 without any further steps. This outcome appears to be the easiest for DHS and Claimant.

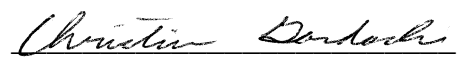
Based on the presented evidence, it is found that DHS properly initiated termination of Claimant’s FAP and MA benefit eligibility due to Claimant’s failure to verify new employment. It is also found that DHS should have ceased the benefit termination after Claimant verified her employment information prior to the effective date of case closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to redetermine Claimant’s FAP and MA benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant’s FAP and MA benefit, effective 3/2013 subject to the finding that Claimant timely verified her employment; and
- (2) supplement Claimant for any FAP and MA benefits improperly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: 4/4/2013

Date Mailed: 4/4/2013

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:

