

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-49279
Issue No.: 2000, 3000
Case No.: [REDACTED]
Hearing Date: June 26, 2013
County: Wayne DHS (35)

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 June 26, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether Claimant is entitled to administrative review for a lack of Medical Assistance (MA) eligibility when Claimant never applied for MA benefits.

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 Food Assistance Program (FAP) benefit recipient.
2. Claimant never applied for MA benefits because his assigned specialist advised him that he would not likely be eligible.
3. On 5/16/13, DHS initiated termination of Claimant's FAP eligibility, effective 6/2013, due to excess income.
4. On 5/22/13, Claimant requested a hearing to dispute the FAP termination and lack of MA benefits.
5. Claimant conceded that the FAP termination was correct.

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).

Claimant requested a hearing, in part, to dispute a termination of FAP benefits. It was not disputed that the termination occurred after DHS determined that Claimant had excess income for FAP eligibility. Claimant testified that he now understands that the DHS action was correct, and that he no longer wishes to proceed with a hearing for that issue. Pursuant to MAC R 400.906(1), Claimant's hearing request is appropriately dismissed concerning the previously disputed FAP benefit termination.

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).

Claimant also requested a hearing to dispute a lack of MA eligibility. It was not disputed that DHS did not take any actions concerning Claimant's MA eligibility because Claimant never applied for MA benefits.

MAHS (Michigan Administrative Hearing System) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.

BAM 600 (2/2013), p. 3.

Claimant testified that he was discouraged from applying for MA benefits by his specialist who advised Claimant that he would not likely be eligible for MA benefits. The advice of Claimant's specialist was information that Claimant could weigh in determining whether it was worth his time to apply for MA benefits. The specialist's advice did not prevent Claimant from applying for MA benefits. Claimant could have ignored the advice, applied for MA benefits and waited for an official outcome; this would have been appropriate. Requesting a hearing because Claimant was discouraged by honest advice

was not appropriate. It is found that Claimant failed to establish a DHS action for which an administrative remedy may be issued.

During the hearing, Claimant was advised that his hearing request would likely be dismissed because of his failure to allege a DHS action that justified administrative remedy. Claimant responded by contending that if he was a foreigner or of a different skin color, then he would receive a more favorable outcome. DHS policy explicitly prohibits such alleged discrimination. Discrimination based on race, sex, religion, age, national origin, marital status, disability or political beliefs is prohibited. BAM 105 (3/2013), p. 2.

Claimant failed to cite a DHS regulation or administrative action that was skin color or nationality-based. The evidence strongly established that the only support for Claimant's contention was ignorance. Accordingly, Claimant did not establish any basis for discriminatory treatment based on skin color or nationality.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that: Claimant is not entitled to administrative review for a non-existent DHS action, Claimant failed to establish a basis for discriminatory treatment and that Claimant no longer has a FAP benefit termination dispute. Claimant's hearing request is DISMISSED.



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

Date Signed: 7/5/2013

Date Mailed: 7/5/2013

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:

