

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53851
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: Macomb DHS (20)

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 July 18, 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 DHS properly terminated Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility due to a failure to verify income.

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 household included a child who was employed.
3. Claimant's benefit eligibility was scheduled for redetermination prior to the end of 5/2013.
4. On 5/15/13, Claimant submitted redetermination documents which included two biweekly pays stubs for her child.
5. DHS acknowledged receipt for one of Claimant's son's pay stubs, but not receipt of a second stub.

6. On 5/28/13, DHS mailed Claimant a Verification Checklist requesting proof of Claimant's son's last 30 days of income.
7. The VCL due date was 6/7/13.
8. On 6/10/13, DHS initiated termination of Claimant's FIP, FAP and MA benefit eligibility.

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. 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 the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The present case concerned a dispute of FAP and MA benefit eligibility. It was not disputed that the programs were terminated due to Claimant's alleged failure to submit a full 30 days of employment income for her child.

For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (10/2010), p. 4.

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.)

For MA 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.

Id., p. 6.

It was not disputed that Claimant submitted to DHS a pay stub for her son from 5/10/13. It was disputed whether Claimant presented a second stub to give DHS a full 30 day period to prospect income. Claimant testified that she submitted a second pay stub (dated 4/26/13) to DHS. DHS denied receiving the pay stub until 7/8/13, a date that would have been too late to avoid benefit terminations.

Claimant brought a pay stub for her son dated 4/26/13 to the administrative hearing. Generally, a client responsible enough to bring a verification to the hearing is more likely to have timely submitted the document to DHS.

Claimant's hearing request noted that Claimant "turned in check stubs". Generally, clients are more credible when there are consistent arguments between written hearing requests and testimony.

Claimant's contention should have been simple- that she timely returned what DHS asked. During the hearing, Claimant also testified that DHS should have assisted her with obtaining the verification. It is strange that Claimant would blame DHS for not helping her obtain what she supposedly already possessed. This argument by Claimant tended to lessen her credibility.

It also did not help Claimant that she asserted that her assigned specialist was unfair or worse. Claimant's assertion was unsupported and could be easily interpreted as an attempt to distract from the primary argument. Clients who make distracting arguments, generally, do so out of knowledge that the facts are not supportive for their side.

Other hearing topics included the importance of Claimant's documents being stapled, an administrative hearing from 4/2013, the location of the lobby drop-box and the duties of a DHS front desk staff person. These topics were ultimately not helpful in determining whether Claimant submitted two biweekly pay stubs for her son, or just one.

Based on the presented evidence, it is slightly more likely than not that Claimant timely submitted a check stub from 4/26/13 with her redetermination documents. Accordingly, the termination of FAP and MA benefits is deemed 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 eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FAP and MA eligibility, effective 6/2013, subject to the finding that Claimant timely turned in a full 30 days of stubs; and
- (2) initiate a supplement of any 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: 7/26/2013

Date Mailed: 7/26/2013

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 affect the substantial rights of the claimant,
 - 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:

