

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20139328
Issue No.: 2000, 3022
Case No.: [REDACTED]
Hearing Date: January 24, 2013
County: Washtenaw 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, an in-person hearing was held on January 24, 2013, from Ypsilanti, Michigan. Participants included the above-named claimant. [REDACTED]

[REDACTED] appeared as Claimant's authorized hearing representative. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUES

The issue is whether DHS properly terminated Claimant's eligibility for Adult Medical Program (AMP) and Food Assistance Program (FAP) benefits to Claimant's failure to submit 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 AMP benefit recipient.
2. Claimant's AMP and FAP benefit eligibility was scheduled to expire by the end of 10/2012.
3. On 9/11/12, DHS mailed Claimant a Redetermination with a due date of 10/1/12.
4. Claimant failed to return the Redetermination, or any other verifications, to DHS by 10/1/12.

5. On 10/2/12, DHS mailed Claimant a Notice of Missed Interview due to Claimant's failure to return the Redetermination to DHS by 10/1/12.
6. On 10/20/12, DHS initiated termination of Claimant's AMP benefit eligibility effective 11/2012.
7. On 10/29/12, Claimant appeared at the DHS office without an appointment in an attempt to comply with the redetermination requirements.
8. Claimant failed to comply with the redetermination requirements.
9. On 10/29/12, Claimant requested a hearing to dispute the AMP and FAP benefit redetermination.
10. Due to Claimant's timely submitted hearing request, DHS continued Claimant's AMP eligibility pending the hearing outcome.
11. DHS testified that Claimant's AMP benefit eligibility will continue.

CONCLUSIONS OF LAW

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the DHS pursuant to MCL 400.10, *et seq.*. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24.278(2). In the present case, Claimant requested a hearing, in part, to dispute a termination of AMP benefits. During the hearing, the parties testified that they reached a settlement concerning AMP benefits. DHS proposed to continue Claimant's AMP benefit eligibility; Claimant accepted the DHS proposal. The agreement was accepted in haste and requires some modification.

It was not disputed that Claimant received AMP benefits through the date of hearing because Claimant's Request for Hearing suspended the AMP termination. It was also not disputed that Claimant has yet to return a Redetermination or supporting verifications to DHS. Without a Redetermination, DHS may not continue Claimant's AMP eligibility. Thus, the modified agreement shall require DHS to provide Claimant an opportunity to submit redetermination documents so that Claimant may be evaluated for continuous AMP benefit eligibility.

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 Department of Human Services must periodically redetermine an individual's eligibility for active programs. BAM 210 (11/2012), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.*

The redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.*, p. 5. 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. *Id.* The Redetermination and supporting 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. For FAP benefits, DHS is to conduct a telephone interview at redetermination before determining ongoing eligibility. *Id.*, p. 3.

It was not disputed that DHS mailed Claimant a Redetermination on 9/11/12. It was not disputed that DHS mailed Claimant a Notice of Missed Interview on 10/2/12. It was not disputed that Claimant failed to submit a Redetermination or any supporting documentation to DHS by the end of the benefit period, 10/31/12.

Claimant's attorney noted that Claimant suffered a brain injury which resulted in multiple cognitive deficits. Medical support was presented concerning Claimant's impairments (see Exhibit 1). The attorney contended that the Americans with Disabilities Act (ADA), requires DHS to provide Claimant with reasonable accommodation for his disability. The argument implies that DHS failed to provide Claimant with reasonable accommodation and that the failure resulted in an improper benefit termination.

DHS regulations offer a comparable philosophy, but with different language. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210 (11/2012), p. 1.

Claimant alleged several failures by DHS. He alleged that DHS failed to return his numerous telephone calls. He alleged that DHS failed to mail him a Redetermination on 9/11/12. He alleged that he appeared at DHS on a Friday and it would have been pointless for DHS to leave a form for him on a Saturday, a day when the DHS office is closed. DHS credibly denied all of Claimant's allegations. Claimant acknowledged having memory difficulties. Medical documentation verified that Claimant has memory difficulties (see Exhibit 1). Based on the presented evidence, all of Claimant's disputed allegations are found to be baseless.

It was not disputed that Claimant appeared at the local DHS office on 10/29/12 (a Monday). Claimant testified that he went to DHS in order to obtain a Redetermination

because he lost the Redetermination mailed by DHS. Claimant's specialist testified that Claimant's arrival on 10/29/12 was without a scheduled appointment. Claimant's specialist testified that Claimant appeared at 4:10 p.m. and during a time the specialist was busy working with another client. The specialist offered to leave Claimant a Redetermination at the front desk on the following business day. The specialist also testified informing Claimant that he would be interviewed following completion of the Redetermination.

There is a temptation to find favorably for Claimant based on the DHS failure to provide Claimant with a Redetermination form on 10/29/12. Even without an appointment, it would be reasonable for Claimant to expect DHS to furnish him with a form. If Claimant's specialist was too busy to complete the request, it would be expected that front desk personnel could have furnished Claimant with a Redetermination. If Claimant's only procedural failure was a failure to return a Redetermination, then it would likely be found that DHS failed to offer Claimant reasonable accommodation.

The evidence supported that Claimant was advised to return the next day so that he could be interviewed. Claimant failed to return to DHS on 10/30/12, the date of his scheduled interview, or 10/31/12, the last date he could have appeared before his benefit eligibility ended. There is no evidence that Claimant made any efforts to be interviewed by DHS.

Claimant is indeed entitled to expect reasonable accommodation from DHS. Claimant was provided with such accommodations. It is unfortunate for Claimant that he may be incapable of appreciating the accommodations that were provided to him. Claimant's expected accommodation was that DHS should replace a Redetermination form that he lost when he appeared at the DHS office; that expectation is reasonable. Claimant also expected that he be interviewed for continued FAP benefits when he appeared at the DHS office without an appointment, 50 minutes prior to closure of the office and before he completed a Redetermination; that expectation is not reasonable. Claimant is not entitled to exceptional accommodation from DHS. It is found that DHS properly terminated Claimant's FAP benefit eligibility due to Claimant's failure to complete redetermination procedures.

It should be acknowledged that the FAP benefit finding is somewhat contradictory to the DHS proposal to continue Claimant's AMP benefit eligibility. An important distinction exists between FAP and AMP benefit eligibility. It is known that AMP benefit eligibility cannot be regained following case closure because the program is frozen from new enrollments (see BEM 640). Restarting FAP benefit eligibility merely requires submitting a new application. The DHS proposal concerning AMP benefit eligibility was believed to be primarily made more out of concern for imposing the harsh consequences of AMP benefit termination, rather than a concession that Claimant was owed accommodations.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact, conclusions of law and by agreement of the parties, finds that DHS improperly initiated termination of Claimant's AMP benefit eligibility, effective 11/2012; It is ordered that DHS initiate:

- (1) processing of a new redetermination of Claimant's AMP benefit eligibility beginning with mailing Claimant a Redetermination; and
- (2) a supplement of AMP benefits, if any, owed to Claimant as a result of the improper termination.

The actions taken by DHS are PARTIALLY REVERSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefit eligibility effective 11/2012. The actions taken by DHS are PARTIALLY AFFIRMED.


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

Date Signed: January 31, 2013

Date Mailed: January 31, 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.

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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:

