

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004345
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: May 27, 2015
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on May 27, 2015, from Detroit, Michigan. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], specialist, and [REDACTED], manager.

ISSUE

The issue is whether DHHS properly terminated Claimant's Food Assistance Program (FAP) eligibility.

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. Claimant was an ongoing member of a 2-person household.
3. Claimant's FAP eligibility was scheduled for redetermination, effective April 2015.
4. On [REDACTED], DHHS mailed Claimant a Notice of Case Action (Exhibits A1-A2) informing Claimant that she was eligible, effective April 2015, in part, based on a FAP benefit group of one person.
5. On [REDACTED], Claimant requested a hearing to dispute the amount of her FAP eligibility for April 2015.
6. Beginning April 2015, DHHS terminated Claimant's FAP eligibility due to Claimant's alleged failure to submit redetermination documents.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. DHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. DHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute her FAP eligibility, effective April 2015. During the hearing, DHHS stated that Claimant's FAP eligibility stopped due to Claimant's failure to return redetermination documents.

The Department of Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2015), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.* A complete redetermination is required at least every 12 months. *Id.* Bridges sets the redetermination date according to benefit periods. *Id.*

The redetermination process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. *Id.*, p. 2. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.* If the client does not begin the redetermination process, DHHS is to allow the benefit period to expire.

A client failure to submit redetermination documents is a legitimate basis to terminate that client's benefits. For multiple reasons, DHHS failed to justify the termination of Claimant's FAP eligibility.

DHHS did not even note in their Hearing Summary (Exhibit A9) that Claimant's FAP eligibility expired. DHHS testimony explained that Claimant's FAP eligibility hadn't expired at the time that the Hearing Summary was drafted. DHHS testimony also explained that there was no way to anticipate what would occur in the redetermination month. DHHS' excuse for failing to cite a redetermination problem in their Hearing Summary has merit and will be accepted. Thus, the analysis will proceed in order to determine if there was merit to the allegation that Claimant failed to submit redetermination documents.

Claimant testified that she timely returned redetermination documents. Claimant presented a Redetermination (Exhibits A3-A8) to support her testimony. The presented Redetermination included DHHS office date stamps of [REDACTED]. It was not disputed that Claimant had until the end of March 2015 to submit the

Redetermination. This evidence strongly supported Claimant's testimony that she timely submitted her Redetermination to DHHS. Despite Claimant's apparent timely Redetermination submission, there is a procedural obstacle to finding that Claimant timely submitted a Redetermination.

Claimant requested a hearing on [REDACTED]. This was the beginning of the redetermination process. As of that date, Claimant hadn't submitted redetermination documents to DHHS and there was no dispute concerning redetermination documents. Technically, an administrative finding cannot be made concerning an issue that hadn't arisen as of the hearing request date. The analysis will continue in order to address the DHHS action that prompted Claimant's hearing request.

Claimant requested a hearing in response to a Notice of Case Action dated [REDACTED] [REDACTED] (Exhibits A1-A3). The Notice of Case Action specifically listed that Claimant's FAP group of one person was approved for FAP eligibility, effective [REDACTED] [REDACTED]. Claimant requested a hearing objecting to the failure of DHHS to factor a 2-person FAP benefit group.

DHHS could not have sent Claimant written notice approving Claimant for FAP benefits from [REDACTED] unless DHHS processed Claimant's FAP redetermination. DHHS testimony conceded that Claimant's FAP eligibility must have been approved; DHHS testimony also alleged that the redetermination should not have been approved because DHHS did not possess Claimant's redetermination documents. DHHS corrected the erroneous approval by sending Claimant no other notices and allowing Claimant's FAP eligibility to expire at the end of March 2015. Aside from evidence strongly supporting that Claimant timely submitted to DHHS a Redetermination, the DHHS argument has a significant procedural flaw.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220 (April 2015), p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.* The action is pending to provide the client a chance to react to the proposed action. *Id.* A notice of case action is not sent when the FAP certification has expired. *Id.*, pp. 4-5.

DHHS policy may allow FAP benefits to expire without providing written notice whenever a redetermination is not processed. In the present case Claimant's FAP redetermination was processed. It is of no importance that Claimant's FAP benefits may have been wrongly redetermined. Once the benefits are redetermined, DHHS owed Claimant timely written notice of any changes to her FAP eligibility. DHHS did not provide Claimant with the required written notice of closure after DHHS redetermined Claimant's FAP eligibility.

DHHS excused the lack of notice by stating that such notices are not possible through Bridges (the DHHS database). First, DHHS could have sent a manual notice to Claimant. Secondly, a limitation by the DHHS database is not a valid excuse for not

complying with a required policy procedure. It is found that DHHS failed to provide Claimant with written timely notice of a termination of FAP benefits.

The proper remedy for the DHHS procedural failure is to continue Claimant's FAP eligibility, effective April 2015, until written notice of termination is provided. DHHS shall also redetermine Claimant's FAP eligibility based on Claimant's undisputedly correct FAP group size of 2 persons.

It should be noted that DHHS has discretionary authority to terminate Claimant's FAP eligibility for a failure to submit a Redetermination, after DHHS complies with the below order. DHHS would also have to provide Claimant with written timely notice of the termination. Such a course is not barred, but it is discouraged as Claimant appears to have complied with her redetermination submission requirements. If DHHS takes such an action, Claimant may dispute the action by requesting another hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS improperly terminated Claimant's FAP eligibility. It is ordered that DHHS perform the following actions:

- (1) reinstate Claimant's FAP eligibility, effective April 2015, subject to the finding that DHHS failed to provide Claimant with written timely notice of FAP termination; and
- (2) determine Claimant's FAP eligibility subject to the finding that Claimant is a member of a 2-person FAP group.

The actions taken by DHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/29/2015**

Date Mailed: **5/29/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

