

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201137989
Issue No: 3008
Case No: [REDACTED]
Hearing Date: July 13, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on June 21, 2011. After due notice, a telephone hearing was held on July 13, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed Claimant's Food Assistance Program (FAP) benefits for failure to return the re-determination packet and conduct her re-determination interview?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was receiving FAP benefits at all times pertinent to this hearing.
2. Claimant's FAP benefits case came due for a re-determination during the month of March, 2011, and a re-determination packet (DHS 1010) was mailed to the claimant on March 15, 2011 with a return date of April 7, 2011. (Department Exhibit 2 pages 1-4).
3. The claimant was also mailed a notice of a re-determination telephone interview on March 15, 2011, scheduling said interview for April 7, 2011. (Department Exhibit 1)
4. The department did not receive the re-determination packet nor was the telephone interview conducted.
5. The department mailed the claimant a notice of missed interview (DHS 254) on April 7, 2011, informing the claimant of the missed interview and directing the claimant to contact her specialist to re-schedule the interview before

May 31, 2011 or otherwise her re-determination would be denied. (Department Exhibit 5).

6. The re-determination interview was never re-scheduled and the claimant's benefits were closed with an effective date of June 1, 2011. (Department Hearing Summary).
7. The claimant filed a timely hearing request on June 7, 2011.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105.

Department policy further indicates that the department must periodically re-determine a claimant's eligibility for active benefits and that a re-determination must be conducted at least once every twelve months. Benefits stop at the end of the benefit period unless a re-determination is completed and a new benefit period is certified. BAM 210.

Furthermore, for FAP re-determination cases, department policy states that an interview must be conducted with the claimant prior to the closure of benefits. BAM 120.

Department policy states as follows:

INTERVIEW REQUIREMENTS AII TOA

Interview requirements are determined by the type of assistance that is being re-determined.

FAP Only

An interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. Indicate on the individual interviewed/applicant-details screen in Bridges who was interviewed and how the interview was held such as by telephone, in person etc.

Telephone FAP Only

The individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview. BAM 120.

SCHEDULING AII TOA

Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due; see RFS 103. Bridges sends a DHS-2063B, Continuing Your Food Assistance Benefits, to **FAP** clients for whom FIP, SDA, MA, AMP, and/or TMAP are **not** active. The packet is sent to the mailing address in Bridges. The packet is sent to the physical address when there is no mailing address. The packet is also sent to the MA authorized representative on file.

Redetermination/review forms may include:

- DHS-574, Redetermination Telephone Interview (FAP).
- DHS-1010, Redetermination (all TOA).
- DHS-1045, Simplified Six-Month Review (FAP).
- DHS-1046, Semi-Annual Contact Report (FAP).
- DHS-1171, Assistance Application (all TOA).
- DHS-2240-A, Mid-Certification Contact Notice (MA and FAP).
- DHS-2063-B, Continuing Your Food Assistance Benefits (FAP).
- DHS-4574, Medicaid Application for Long-Term Care.
- DCH-0373-D, MI Child and Healthy Kids Application.

The packet includes the following as determined by the TOA to be redetermined:

- Redetermination/review form indicated above.
- Notice of review as determined by policy.
- Interview date.
- Interview type.
- Place and time.
- Required verifications.

- Due date.
- Return envelope.

FAP Only

If you must manually send a DHS-1171 and the DHS-2063-B, if applicable, mail them **no later** than two workdays before the first day of the redetermination month. If you do **not** mail the forms within that time period, adjust the timely filing date, see FAP Timely And Untimely Filing Date in this item.

Clients may be, but are **not** required to be, interviewed before the timely filing date. BAM 120

In the case at hand, the claimant testified that she did in fact fill out her re-determination packet and mailed it in to the department. The department, however, did not receive the packet. Furthermore, the claimant did not conduct her re-determination interview as required by policy. However, the claimant testified that she received her notice of missed interview and promptly called her case worker to schedule her interview. She testified that she called her case worker several times and did not receive a call back. Call logs provided by the case worker tend to confirm the testimony offer by the claimant; specifically that the call logs show phone calls from the claimant on April 11, 2011 and May 3, 2011, the May 3, 2011 notes specifically referencing the FAP phone interview. (Department Exhibits 6-7).

Based on the totality of the evidence presented, the Administrative Law Judge finds that the claimant took reasonable and appropriate steps to attempt to comply with the re-determination process, and that her failure to complete the process was not a result of her failure or inaction. Additionally, because the claimant made reasonable and appropriate steps to schedule her re-determination interview, the department should have scheduled and conducted said interview before terminating the claimant's FAP benefits in accordance with BAM 120. The Administrative Law Judge therefore finds that the claimant did not refuse to cooperate with the re-determination process.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant did not refuse to cooperate with the re-determination process for her FAP benefits.

Accordingly, the department's actions are **REVERSED** and the department shall complete the claimant's re-determination as necessary, reinstate any benefits lost as of June 1, 2011, and grant any retroactive benefits if applicable.

It is SO ORDERED.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 15, 2011

Date Mailed: July 18, 2011

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

CSS/cr

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