

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-40404
Issue No: 3008, 3022

[REDACTED]

[REDACTED]

Hillsdale County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (referred to as "the claimant") request for a hearing received on May 19, 2011. After due notice, a telephone hearing was held on July 26, 2011. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed the claimant's Food Assistance Program (FAP) benefits for failure to timely return the redetermination forms?

FINDINGS OF FACT

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

1. The claimant was a FAP recipient at all relevant times.
2. On April 11, 2011, the claimant contacted the department and changed her mailing address from "441 Pioneer Drive, Litchfield, Michigan 49252" to "128 Hoose Ct, Apt 3, Litchfield, Michigan 49252." (Department Exhibit 16).
3. On April 13, 2011, the department mailed the claimant a "Redetermination" form (DHS-1010) and a "Redetermination Telephone Interview" form (DHS-574) scheduling an interview appointment for May 2, 2011 at 11:00a.m. (Department Exhibit 3). According to the DHS-574, the claimant was instructed to provide the department with a completed redetermination form and all required proofs. (Department Exhibit 3).

4. The redetermination forms were mailed to the claimant at "441 Pioneer Drive, Litchfield, Michigan 49252." (Department Exhibits 3-7).
5. On May 2, 2011, the claimant failed to return the redetermination forms to the department and she also failed to appear for her scheduled interview. (Department Exhibit 9).
6. On May 2, 2011, the department mailed the claimant a Notice of Missed Interview form (DHS-254). (Department Exhibit 9). The DHS-254 was mailed to claimant at: 128 Hoose Ct, Apt 3, Litchfield, Michigan 49252." (Department Exhibit 9).
7. On June 16, 2011, the department mailed a Notice of Case Action (DHS-1605) which approved FAP benefits in the amount of [REDACTED] per month to begin on June 16, 2011. (Department Exhibits 10-12).
8. On June 16, 2011, the claimant reapplied for FAP benefits and informed the department of a change in her physical and mailing address as "441 Pioneer Drive, Litchfield, Michigan 49252." (Department Exhibit 16).
9. The claimant requested a hearing seeking retroactive FAP benefits beginning on June 1, 2011 rather than June 16, 2011. (Request for Hearing).

CONCLUSIONS OF LAW

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

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Department of Human Services must periodically redetermine an individual's eligibility for active types of assistance. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active types of assistance (TOA). BAM 210. However, the client must complete a DHS-1171, Assistance Application, to request a TOA that is not active at the time of redetermination. BAM 210. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications; see BAM 130. BAM 210.

A complete redetermination is required at least every 12 months. BAM 210. Redeterminations may be scheduled early or are scheduled less than 12 months apart when necessary for:

- Error-prone cases, in response to supervisory case readings, quality assurance data or quality enhancement data.
- Medicaid (MA) only, newborn cases must be redetermined no later than the month of the child's first birthday; see BEM 145.
- Transitional Medicaid (TMA) redeterminations must be completed at least 40 days before the end of the 12-month eligibility period to accommodate TMA-Plus (TMAP); see BEM 647.
- Food Assistance Program (FAP) cases with unstable circumstances assigned a three-month benefit period. BAM 210.

Exception #1: Some MA groups do not require a redetermination; BAM 210. *Exception #2:* Some FAP groups are assigned a 24-month benefit period and require only a mid-certification contact in the 12th month; BAM 210. For MA, a companion case for a spouse may also be given the extended benefit period once the mid-certification notice has been received and reviewed. BAM 210.

Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210. If the client does not complete the redetermination process, the department will allow the benefit period to expire. BAM 210. 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. BAM 210.

Interview requirements are determined by the type of assistance that is being redetermined. BAM 210. For FAP purposes, 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. BAM 210. The department worker is required to 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. BAM 210.

For FAP, the individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview. BAM 210. The department worker must conduct a telephone interview at redetermination before determining ongoing eligibility. BAM 210. However, an in-person interview must be conducted if one of the following exists:

- The client requests one.
- The department worker determines it is appropriate. For example, suspect that information in the application fraudulent. BAM 210.

Exception: The department will not require an in-office interview if the client is experiencing a hardship which prevents an in-office interview. BAM 210. Instead, the department will conduct the in-person interview at the client's home or another agreed upon location. Hardship conditions include but are not limited to: illness, transportation difficulties, work hours. BAM 210.

- The department is processing a joint cash and FAP redetermination; see Jointly Redetermined Cash/FAP Cases in this item. BAM 210.

For joint FIP and FAP redeterminations the department must conduct an in-person interview at redetermination before determining ongoing eligibility. BAM 210. The grantee or authorized representative must sign and date the DHS-1010/1171 in presence of the department worker even if it was already signed. BAM 210. The department employee must sign and date the application as a witness. BAM 210. Exception: For FAP, an in-office interview is not required if the client is experiencing a hardship which prevents an in-office interview. BAM 210. Instead, the department will conduct the in-person interview by telephone or at the client's home or another agreed upon location. BAM 210. Hardship conditions include but are not limited to: illness, transportation difficulties, work hours etc. BAM 210.

For FAP, when a redetermination is scheduled early, FAP benefits cannot be terminated prior to the end of the benefit period for failure to complete the redetermination process. BAM 210.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Clients must take actions within their ability to obtain verifications and DHS staff must assist when necessary. BAM 105. Specifically, the local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105 and BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210. For FAP only, if the redetermination packet is not logged in on the Packet Received screen by the last working day of the redetermination month, Bridges automatically closes the EDG. BAM 210. A DHS-1605 is not generated. BAM 210.

In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month. BAM 210. Exception: If the department mails the client's redetermination materials late, the timely filing date is 17 days after the department mailed the materials. BAM 210.

Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210. If the 10th day falls on a weekend or holiday, the verification will not be due until the next business day. BAM 210. If verifications are provided by the required deadline but too late for normal benefit issuance, benefits must be issued within five workdays. BAM 210. Verifications are considered timely if received by the date they are due. BAM 130. For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. BAM 130.

Here, the claimant is disputing the department's decision to issue FAP benefits beginning on June 16, 2011 following redetermination. The claimant failed to return redetermination forms but, on June 16, 2011, applied for and was approved for FAP. The claimant, however, believes that the department should have approved her FAP on June 1, 2011. The department takes the position that when the claimant failed to return the redetermination forms the certification for FAP ended on May 31, 2011. The claimant states that she did not receive any redetermination forms and, for that reason, she is entitled to FAP dating back to June 1, 2011.

In accordance with Michigan law, it is presumed that a letter is received that is mailed in the due course of business. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good, supra*.

In the instant case, there is evidence that the claimant did not receive the redetermination forms because the department mailed the forms to the wrong address. The department should have used the claimant's correct address when it sent the redetermination forms. The reason why the department did not receive the redetermination forms is due to the department's failure to properly send the forms to the claimant.

Therefore, this Administrative Law Judge finds that the department improperly approved the claimant's FAP beginning on June 16, 2011 rather than on June 1, 2011. Per BAM

210, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210. The claimant did not receive the redetermination forms that were purportedly sent on April 13, 2011. Two days earlier, on April 11, 2011, the claimant provided the department with a new address (128 Hoose Ct, Apt 3, Litchfield, Michigan 49252), but the department sent the redetermination forms to the claimant's previous address. Because the department did not send the redetermination forms to the correct address, the claimant could not have completed the redetermination process. The reason why the claimant's certification period expired on May 31, 2011 is due to the department's failure to properly send the redetermination forms. The claimant's FAP should be provided with retroactive FAP beginning on June 1, 2011, rather than on June 16, 2011.

Under these circumstances, the department should not have allowed the benefit period to expire on May 31, 2011. BAM 210. Although the claimant reapplied for FAP on June 16, 2011, the department should not have closed her FAP for failure to provide the redetermination forms.

Therefore, this Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department improperly approved the claimant's FAP benefits on June 16, 2011 rather than June 1, 2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in determining the claimant's FAP eligibility and the date the eligibility period commenced.

Accordingly, the Department's FAP eligibility determination is REVERSED. The department shall issue supplemental payment of FAP benefits to the claimant from June 1, 2011, if otherwise eligible.

It is SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/4/11

Date Mailed: 8/4/11

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.

CAP/ds

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