

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2011-14795

Issue No: 3008

Case No: [REDACTED]

Hearing Date:

February 17, 2011

Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing received by the Department on January 4, 2011. After due notice, a telephone hearing was conducted from Detroit, Michigan on February 17, 2011. The Claimant appeared by telephone and testified on her own behalf. The Department's representatives Terry Bailey FIM appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance (FAP) Case for failure to complete the Redetermination in a timely manner?

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.
2. A redetermination was scheduled to be held by telephone on December 1, 2010 and the Claimant responded and spoke to her caseworker. The Claimant also acknowledged that she received the redetermination and checklist. Exhibit 1

3. Thereafter, the Claimant's case was closed December 29, 2010 for the Claimant's failure to complete the information.
4. There were no notes in the case file indicating that the Claimant failed to respond and the claimant's caseworker was not available for the hearing.
5. The claimant's hearing request checked off that she wanted to continue to receive food assistance benefits while her hearing was pending but did not receive benefits even though her hearing request was received before January 10, 2010. Exhibit 2
6. The Claimant testified that she completed the redetermination and had her phone interview.
7. The Claimant requested a hearing on January 4, 2011, protesting the closure of her Food Assistance case for failing to complete the redetermination. The request was received by the Department on January 6, 2011.

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 of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM

702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued.

BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

In this case, the Department mailed out a Redetermination scheduling a telephone interview, and based upon the Claimant's un rebutted testimony the redetermination interview was conducted. Thereafter the Claimant's FAP case closed for failure to complete the redetermination. The evidence presented by the department at the hearing did not establish that the Claimant refused to cooperate or refused to complete the redetermination. Based upon the evidence presented the Department did not sustain its burden to show that it acted in accordance with policy and appropriately closed the Claimant's FAP case. Additionally the Department incorrectly stopped the Claimant's FAP benefits pending the resolution of her hearing request even though the Claimant's hearing request asked that her benefits continue. Exhibit 2.

Under these facts and circumstances and based upon the foregoing findings and relevant law it is concluded that the Department improperly closed the Claimant's FAP case and its determination that the Claimant's failed to complete the redetermination and was non cooperative was in error and is REVERSED.,

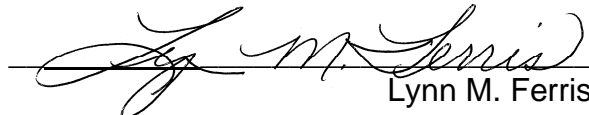
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did not support the decision of the Department to close the Claimant's FAP case for refusal to complete the

redetermination, and therefore, her FAP case must be reinstated retroactive to the date of closure, January 1, 2011, and a new redetermination be completed.

Accordingly, it is ORDERED:

1. The Department's shall reinstate the Claimant's FAP case retroactive to January 1, 2011.
2. The Department shall issue a supplement to the Claimant for FAP benefits for the period January 1, 2010 through the date of the hearing as she timely requested that her FAP benefits were to continue pending the hearing.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 02/24/11

Date Mailed: 02/28/11

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.

LMF/dj

cc:

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