

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201119410

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on February [REDACTED]. After due notice, a telephone hearing was held on [REDACTED]. The Claimant was present and testified.

ISSUE

Did the Department properly terminate Claimant's Food Assistance Program (FAP) case based on a failure to return Redetermination documents?

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 sent DHS 1010 Redetermination on [REDACTED]. (Department Exhibit 1, pg 1).
2. The Redetermination form included an Appointment for a telephone interview on [REDACTED] (Department exhibit 1, pg 1).
3. Claimant failed to be present for the interview.
4. Claimant was sent a DHS 254 [REDACTED] requesting her to re-schedule an appointment prior to [REDACTED]. (Department exhibit 1 pg 2).
5. Claimant did not submit any of the required documentation prior to [REDACTED].
6. On [REDACTED], Claimant's FAP case closed for failure to provide verification. (Hearing Summary).

7. On [REDACTED], Claimant requested a hearing regarding the FAP closure.

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 - .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). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

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

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 states:

BAM 105 Department Policy

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews. The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Specific penalties can be found in the applicable BEM and BAM items.

Verifications All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary; see BAM 130 and BEM 702.

BAM 130 Department Policy

Verification is usually required at application/ redetermination **and** for a reported change affecting eligibility or benefit level.

Obtaining Verification

Tell the client what verification is required, how to obtain it, and the due date; Use the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.

Timeliness of Verifications

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day. Send a negative action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

Note: 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. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies [REDACTED] of the application date; see BAM 115, Subsequent Processing.

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

Exception: At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10

days, whichever is later, to provide verification;
see BAM 210.

**BAM 210 DEPARTMENT POLICY
All Types of Assistance (TOA)**

The Department of Human Services must periodically redetermine an individual's eligibility for active TOA. The redetermination process includes thorough review of all eligibility factors. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active TOA. However, the client **must** complete a DHS-1171, Assistance Application, to request a TOA that is not active at the time of redetermination.

FAP Only

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

In this case, the claimant is disputing the closure of her FAP case for failure to submit the required completed redetermination forms and participate with the interview.

Claimants are required to comply with the local office to allow the Department to determine initial or ongoing eligibility. BAM 105. The Department must periodically redetermine an individual's eligibility for active FAP. The process includes a thorough review of all eligibility factors. BAM 210. In this case, the Claimant was sent notice of the redetermination process through the DHS 1010 Redetermination packet. This included a notice of a telephone interview to be held on [REDACTED]. The packet also stated that the Claimant was to return the DHS 1010 and proofs prior to the interview on [REDACTED]. The Claimant admits that she missed the telephone interview. She states that she could not participate because her phone was out. She acknowledges that she did not submit the forms or notify the Department regarding the problem prior to the missed interview. She states that she subsequently contacted the Department and made an appointment for [REDACTED]. She states that she does not know the date she made the appointment. She states that she believes it was prior to [REDACTED]. The caseworker stated that the Claimant contacted the Department the first week of December to schedule the appointment. As of this date, no DHS 1010 has been turned in by the Claimant. The Claimant submitted a new application for assistance in [REDACTED]. The redetermination documents are needed to determine FAP eligibility. BEM 400. Because the Claimant failed to submit the Redetermination documents and participate in the interview, the Redetermination

process was not able to be completed. BAM 210 states that benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. In this case, the Department could not determine the Claimant's ongoing eligibility for the FAP program allowed the Claimant benefits to expire at the end of the certification period.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly closed the Claimant's FAP benefits because the Claimant failed to submit the documents needed to verify her ongoing eligibility for FAP benefits.

Accordingly, the Department's actions are UPHeld. SO ORDERED.

_____/s/_____
Administrative Law Judge
for _____

Date Signed: _3/23/11_____

Date Mailed: _3/23/11_____

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.

