

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-30492

Issue No: 3008

[REDACTED]

[REDACTED]

Kalamazoo 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 (also referred to as "the claimant") request for a hearing received on April 12, 2011. After due notice, a telephone hearing was held on July 12, 2011. The claimant personally appeared and provided testimony.

**ISSUE**

Did the department properly close the claimant's Food Assistance Program (FAP) benefits for failure to timely return the required verification?

**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 receiving FAP at all times pertinent to this hearing. (Hearing Summary).
2. In July, 2010, the claimant relocated from [REDACTED], [REDACTED]. According to the department's computer system, the claimant's Kalamazoo mailing address was listed as [REDACTED] but her physical residence address was [REDACTED]. (Department Exhibits 14 & 15).
3. The claimant no longer had access to her PO Box after October 31, 2010 but she did not inform the department that all future correspondence and notices should be sent to the 4576 Horton Drive address until December 1, 2010. (Department Exhibit 14)
4. On December 2, 2010, the department mailed the claimant a Special Assignment Notice (DHS-193) introducing [REDACTED]" as her new

specialist on the case. The DHS-193 was sent to the claimant's address on [REDACTED]. (Claimant's Exhibit A).

5. On December 20, 2010, the department mailed the claimant a Specialist Assignment Notice (DHS-193) introducing [REDACTED] as her new specialist on the case. The DHS-193 was sent to the claimant's post office [REDACTED] (Claimant Exhibit B).
6. On February 9, 2011, the department mailed the claimant an Annual State SSI Payment Notice (DHS-553) to the claimant at the [REDACTED] live address. (Claimant Exhibit C).
7. On February 14, 2011, the department mailed the claimant a Redetermination Form (DHS-1010) which requested the claimant produce documentation so that a redetermination telephone interview may be scheduled for March 1, 2011 regarding her FAP benefits. (Department Exhibit 3). The DHS-1010 was mailed to the claimant's PO Box address. (Department Exhibit 3).
8. The claimant did not attend the redetermination interview on March 1, 2011. (Department Exhibit 8).
9. On March 1, 2011, the department mailed the claimant a Notice of Missed Interview (DHS-254). (Department Exhibit 8) The notice was sent to the claimant's PO Box address. (Department Exhibit 8).
10. On March 29 and 30, 2011 the department caseworker called the claimant and left a telephone message notifying claimant that her FAP would close if the DHS-1010 was not returned by March 31, 2011 or that the claimant should reapply for FAP. (Department Exhibit 10).
11. On April 6, 2011, the department mailed the claimant a Notice of Case Action (DHS-1605), informing her that her FAP benefits have closed because she failed to timely return the DHS-1010 (Notice of Case Action, Department Exhibit 12).
12. On April 12, 2011, the claimant submitted a hearing request challenging the closure of her FAP. (Request for a Hearing).

### **CONCLUSIONS OF LAW**

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. 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 (TOA). 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 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.

A complete redetermination is required at least every 12 months. BAM 210. Bridges sets the redetermination date according to benefit periods, see eligibility decisions in BAM 115. 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.

There are two exceptions. The first exception is that some MA groups do not require a redetermination. See BAM 210 section entitled "No MA Redetermination." BAM 210. The second exception is that some FAP groups are assigned a 24-month benefit period and require only a mid-certification contact in the 12th month. See BAM 210 section "Mid-Certification Contact." 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.

For FAP purposes, 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.

For purposes of the Child Development and Care (CDC) program, if a CDC group is active for other programs, the department's Bridges computer system will set the CDC redetermination date to be the same redetermination date as the other program if 12 months or less. BAM 210.

Depending upon the TOA that is being redetermined, an interview may be required. BAM 210. With regard to 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. BAM 210. If the client misses the interview, the department's computer system "Bridges" sends a DHS-254, Notice of Missed Interview. BAM 210.

For FAP, the department must conduct a telephone interview at redetermination before determining ongoing eligibility. BAM 210. However, an in-person interview will be conducted if one of the following exists:

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

Exception: An in-office interview is not required if the client is experiencing a hardship which prevents an in-office interview. Instead, 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 BAM 210.

All individuals with a FIP or SDA Eligibility Determination Group (EDG) participation status of eligible or disqualified adult, who are physically able, must be interviewed and must sign and date the DHS-1010 or DHS-1171 in the presence of a department worker. BAM 210. Interviews are usually conducted at the local office but may be held in a group's home if:

- The grantee's physical condition precludes an office interview.
- A home call would result in better information. BAM 210.

For FIP only, an ineligible grantee is not required to attend an in-person interview at redetermination. BAM 210. For MA, Adult Medical Program (AMP), and TMAP, an in-person interview is not required as a condition of eligibility. BAM 210.

A client or third-party address change must be entered at least three days before the issuance date to affect that benefit. BAM 400.

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.

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.

In the instant case, the claimant is disputing the department's termination of her FAP benefits for failure to timely return the redetermination (DHS-1010) form. The department required the claimant's information in order to conduct an interview which was scheduled for March 1, 2011. The claimant does not dispute that she failed to send the department the requested redetermination form, but claims that she did not receive the form in the mail. Michigan adopts the common-law presumption that letters have been received after being placed in the mail in the due course of business. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). It is presumed that a letter is received that is mailed in the due course of business. *Good, supra*. That presumption, however, may be rebutted by evidence. *Id.*

Here, the claimant has provided evidence that sufficiently rebuts the presumption of receipt. After the claimant called the department on December 1, 2011 and advised them that she no longer had access to her PO Box address, the department should have updated the claimant's address information on the computer system. The department mailed the redetermination (DHS-1010) to the claimant at her PO Box address rather than at the [REDACTED]. This Administrative Law Judge finds that the claimant did not receive the redetermination form because the department did not send it to the correct address. As a result, the claimant did not receive proper notice of a redetermination interview scheduled for March 1, 2011.

Thus, this Administrative Law Judge finds that the claimant did not receive the redetermination form because the department mailed it to the wrong address. Because the claimant did not receive notice of the redetermination and the subsequent interview, the department should not have closed her FAP on that basis.

Therefore, this Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department improperly closed the claimant's FAP benefits for failure to timely submit the redetermination forms.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed Claimant's FAP benefits for failure to timely turn in the requested redetermination forms. Accordingly, the department shall:

- Verify and update the claimant's address on Bridges in accordance with policy, and
- Reinstate the claimant's FAP benefits and issue any retroactive benefits the claimant is entitled to receive.

It is SO ORDERED.

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

Date Signed: \_\_\_7/22/11\_\_\_\_\_

Date Mailed: \_\_\_7/22/11\_\_\_\_\_

**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

