

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2011-3848

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 2, 2010

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

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 October 13, 2010. After due notice, a telephone hearing was held on December 2, 2010. The claimant and his representative Aaron Rankin were present and testified.

ISSUE

Did the Department properly allow claimant's Food Assistance benefit period to expire based on a failure to participate in the Redetermination 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 Food Assistance Program (FAP) benefits in September 2010.
2. On September 14, 2010, Claimant was sent a DHS-574 Redetermination Telephone Interview notice for October 1, 2010.
3. Claimant admits that he missed the interview.
4. On October 1, 2010, Claimant was sent a Notice of Missed Interview with a request to contact the specialist to schedule a new interview.

5. Claimant admits that he never rescheduled the interview and filed a request for hearing.
6. On October 13, 2010, 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. BAM 600. 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 Program Reference Manual (PRM).

Department Policy states:

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.

Local offices must assist clients who need and request help to complete applications, forms and obtain verifications; see BAM 130, Obtaining Verification.

REDETERMINATION CYCLE All TOA

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

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.

INTERVIEW REQUIREMENTS All TOA

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

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.

You must conduct a telephone interview at redetermination before determining ongoing eligibility. However, conduct an in-person interview if one of the following exists:

- The client requests one.
- You determine it is appropriate. For example, you suspect information in the application is fraudulent.

Exception: Do not require an in-office interview 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.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. BAM, Item 105, p. 5.

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

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, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

In this case, the claimant is disputing the automatic end of his FAP case for failure to participate in the required redetermination interview.

Claimants are required to comply with the local office to allow the department to determine initial or ongoing eligibility. BAM 105. The department informs the client of his Redetermination interview (DHS 574). BAM 130. 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. BAM 210.

The Claimant admits that he received the Redetermination Telephone Interview Notice and the Notice of Missed Interview. He stated that he filed the Request for Hearing and was advised by another individual not to participate in the interview despite the Caseworker's attempts to reschedule the interview. The Telephone Interview is necessary to determine FAP eligibility. BAM 210.

Department policy state that if a client does not complete the redetermination process, the Department is to allow the benefit period to expire. BAM 210. In this case, the Claimant did not participate in the Redetermination interview and the Department properly allowed the benefit period to expire.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted properly when Claimant's FAP benefit period was allowed to expire.

Accordingly, the department's actions are UPHELD.

SO ORDERED.

/s/ _____
Kandra Robbins
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 7, 2010

Date Mailed: December 7, 2010

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.

KKR/tg

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