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

IN THE MATTER OF:



Reg. No.:	2
ssue No.:	3
Case No.:	
Hearing Date:	F
County:	S

2013-13177 3008

February 7, 2013 Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

ISSUE

Due to a failure to comply with the ve rification requirements, did the Department properly and deny Claimant's application close Claimant's case reduce Claimant's benefits for:

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Family Independence Program (FIP)? Food Assistance Program (FAP)?

П	State Disability Assistance (SDA)?	
	Child Development and Care (CDC)?	?

Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantia I evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Cla imant applied for was receiving: FIP KAP MA SDA CDC.

- 2. On September 11, 2012, the Claimant 🖾 was 🗌 was not provided with a redetermination packet (DHS-1010). T he redetermination packet was due October 11, 2012.
- 3. On September 18, 2012, the Claimant returned to t he Department a completed redetermination packet.

- 4. According to the redetermination packet, the Claimant was supposed to participat e in a telephone interview on October 11, 2012.
- 5. On October 11, 2012, the Department failed to contact the Claimant at the number provided in the redetermination packet.
- 6. Between October 12, 2012 and approximately November 5, 2012, the Claimant and the Department exchanged phone calls but never rescheduled or participated in a phone interview.
- 7. On approximately Novem ber 1, 2012, the Department closed the Claimant 's FAP case due to the Claimant failing to participate in a telephone interview.
- 8. On November 19, 2012, the Claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The FAP [formerly known as the Food Stamp (F S) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in T itle 7 of t he Code of Federal Regulations (CF R). The Department (formerly known as the Fa mily Independence Agenc y) admin isters FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

The Depar tment of Human Services must periodically redetermine an individual's eligibility. The redetermination process includes thorough review of all eligibility factors.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. Client s must completely and truthfully answer all questions on forms and in interviews.

Testimony and other evidence must be we ighed and considered according to its reasonableness.¹ Moreover, the weight and credibi lity of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness 's testimony, and the interest, if any, the witness may have in the outcome of the matter.³

¹ *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

I have carefully considered and weighed the testimony and other evidence in the record and find the Claimant's witnesse s testimony, to be persuasive. The arguments wer e substantiated by telephone rec ords that I found to be both credible and thorough. Based on those records, I could not find any phone calls placed by the Department to the Claimant on the date of the interview at or around the time of the interview. Therefore, I do not find the D epartment attempted to call the Claimant for the interview as alleged.

Additionally, I found the Department's lack of attention to detail surrounding the notice of case action and spec ific dates as the relat ed to the notice discouraging. It caused me to seriously question the veracity of the Department's testimony.

Accordingly, I find, based on the com petent, material, and substant ial evidence presented during the hearing, the depart ment did not act in accordance with the applicable laws and policies in closing the Claimant's FAP case.

DECISION AND ORDER

I find based upon the above F indings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did not act properly.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination as to t he Claimant's eligibility for FAP benefits beginning November 1, 2012 and iss ue retroactive benefits if otherwis e qualified and eligible.

/s/

Corey A. Arendt Administrative Law Judge For Maura Corrigan, Director Department of Human Services

Date Signed: February 8, 2013

Date Mailed: February 8, 2013

<u>NOTICE</u>: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the receipt date of this Dec ision and Order. MAHS will not or der a rehearing or

reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical errors, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address ot her relevant iss ues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative hearings

Recons ideration/Rehearing Request

P. O. Box 30639 Lansing, Michigan 48909-07322

CAA/las

CC:

