

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

IN THE MATTER OF:



Reg. No.: 2012-21562
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, February 14, 2013. The Claimant appeared and testified. Participating on behalf of Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly terminated the Claimant's FAP benefits effective January 1, 2013 based on the failure to complete the redetermination process?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing FAP recipient.
2. On December 30, 2012, the Department sent the redetermination packet to the Claimant with a due date of December 17, 2012. (Exhibit 3)
3. The Claimant failed to submit the requested information resulting in a Notice of Missed Interview being sent to the Claimant. (Exhibit 2)
4. On December 20, 2012, the Claimant contacted the Department to reschedule her interview as provided for in the Notice of Missed Interview.

5. The Claimant's interview was rescheduled for December 27th with instructions to submit verification of employment (pay stubs).
6. On December 27, 2012, the Claimant arrived for her interview but the interview was not conducted.
7. The Claimant dropped off copies of her paystubs for the period beginning November 15th and ending December 12th in the Department's drop box. (Exhibit 1)
8. Effective January 1, 2013, the Claimant's FAP benefits terminated based on the failure to complete the redetermination process.
9. On January 7, 2013, the Department received the Claimant's written request for hearing protesting the termination of FAP benefits.

CONCLUSIONS OF LAW

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

The Food Assistance Program ("FAP"), formerly known as the Food Stamp 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, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through 400.3015.

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105 (November 2012), p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (May 2012), p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verification(s). BAM 130, p. 5. 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 (November 2012), p. 2. If the client misses the redetermination interview, a Notice of Missed Interview is sent to the Claimant. BAM 210, p. 3. Telephone interviews are permissive at redetermination; however, an in-person interview is permitted if the client requests one. BEM 210, p. 3. If the client does not complete the redetermination process, benefits expire at the end of the benefit period. BAM 210, p. 2. Bridges will issue a payment for lost benefits if the client is not at fault for delayed processing that prevented participation in the first month. BAM 210, p. 14. The FAP group loses their right to uninterrupted FAP benefits if they failed to file the FAP redetermination by the timely filing date; participate in the scheduled interview; or submit timely verifications. BAM 210, p. 14.

In this case, the Department sent the redetermination packet to the Claimant with a due date of December 17, 2012. The Claimant did not submit the redetermination packet by December 17th resulting in a Notice of Missed Interview being mailed to the Claimant. This Notice informed the Claimant of the missed interview and instructed the Claimant to contact her worker to schedule an interview prior to December 31st. The Claimant called her worker resulting in an interview appointment on December 27, 2012.

On December 27th, the Claimant went to the local office, signed in, and waited to be called for her interview. The Claimant was unable to print out the redetermination form so she was unable to complete it. The Claimant was not called nor was she successful in reaching her worker. Prior to leaving, the Claimant submitted copies of her paystubs covering a 4 week period. There was no further communication between the parties, resulting in the redetermination not being completed and the Claimant's FAP benefits terminating effective January 1, 2013. Policy provides, in part, that a group loses their right to uninterrupted benefits if they fail to file the FAP redetermination by the timely filing date. The Claimant did not file the FAP redetermination but contacted the Department to reschedule her interview in order to complete the redetermination process.

As previously noted, the Claimant arrived on the scheduled date for her interview but was never called upon for the interview. Although the Claimant was unable to print and complete the redetermination form (DHS 1010) while waiting for her interview, she did submit the requested verifications (copies of her paystubs covering the 4 week period). At this point, the Claimant attempted to comply with policy but was prevented when the Department did not call her for the December 27th rescheduled in-person interview. As such the Claimant was not at fault for the delayed processing. In light of the foregoing, the Department's FAP closure is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department's termination of FAP benefits is not upheld.

Accordingly, it is ORDERED:

1. The Department's termination of FAP benefits is REVERSED.
2. The Department shall initiate processing of the December 2012 FAP redetermination in accordance with department policy.
3. The Department shall notify the Claimant of the FAP determination in accordance with Department policy.

4. The Department shall supplement for lost FAP benefits effective January 1, 2013 that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 20, 2013

Date Mailed: February 20, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision 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 timely 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 **MAY** 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 error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CMM/tm

cc:

