

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

IN THE MATTER OF:

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Reg. No.: 2013-57166
Issue No.: 3008
Case No.: ██████████
Hearing Date: August 8, 2013
Wayne County DHS (49)

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 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday, August 8, 2013. Claimant appeared, along with Larry Jordan, and testified. Participating on behalf of the Department of Human Services ("Department") was ██████████

ISSUE

Whether the Department properly terminated Claimant's Food Assistance Program ("FAP") benefits effective June 1, 2013?

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP recipient.
2. On April 15, 2013, a Redetermination Packet was sent to Claimant with a due date of May 1, 2013. (Exhibit 1)
3. On May 1, 2013, the Department sent a Notice of Missed Interview to Claimant instructing her to reschedule before May 31, 2013. (Exhibit 2)
4. Claimant's FAP benefits terminated effective June 1, 2013.

5. On July 9, 2013, the Department received Claimant's timely request for hearing.

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. 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. 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, informing Claimant to submit the redetermination to avoid the interruption of benefits. BAM 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.

The client must obtain the required verification; however, the Department must assist if needed and/or requested. BAM 105 (March 2013), p. 10; BAM 130 (May 2012), p. 3. If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. BAM 130, p. 3. If no evidence is available, the Department should use its best judgment. BAM 130, p. 3. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 105, p. 5; BAM 130, p. 5. The Department has the responsibility of telling the client what verification is required, how to obtain it, and the due date. BAM 130, p. 2. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p. 5.

In this case, a redetermination was mailed to Claimant on April 15, 2013; however it was not timely received by Claimant. During the month of May, Claimant was in continual contact with the Department regarding the redetermination and asking what information was needed. In response, the Department mailed another redetermination packet. The Department acknowledged there was miscommunication between itself and Claimant. Claimant received and completed the second redetermination packet, noting it was the second one that was sent to the Department but at this point, FAP benefits had already expired. Ultimately, the evidence demonstrates that Claimant attempted to complete the redetermination and sought assistance from the Department which was not timely provided. There was no evidence that Claimant had refused to

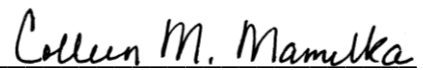
cooperate. Instead, the record established that Claimant actively pursued her benefits. In light of the foregoing, it is found that the termination of FAP benefits is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department failed to establish it acted in accordance with department policy when it terminated Claimant's FAP benefits.

Accordingly, it is ORDERED:

1. The Department's FAP determination is REVERSED.
2. The Department shall initiate re-instatement of Claimant's FAP benefits effective June 1, 2013, in accordance with Department policy.
3. The Department shall initiate supplementation of FAP benefits that the Claimant was entitled to receive but did not, if otherwise eligible and qualified and in accordance with Department policy.
4. The Department shall initiate a redetermination of Claimant's FAP eligibility, if not already done so, and notify Claimant of the determination in accordance with Department policy.



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

Date Signed: August 13, 2013

Date Mailed: August 13, 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]