

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

**IN THE MATTER OF:**

Reg.

No: 201356546

Issue No: 2006, 3008, 6015

Case No:

Hearing Date: August 8, 2013

Berrien County DHS

**ADMINISTRATIVE LAW JUDGE:** Suzanne D. Sonneborn

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on July 1, 2013. After due notice, a telephone hearing was held on August 8, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an assistance payments with the department's Berrien County office.

**ISSUE**

Whether the department properly closed Claimant's Food Assistance Program (FAP) benefits, and Medical Assistance (MA) benefits, and Child Development and Care (CDC) benefits due to a failure to verify necessary information?

**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 a recipient of FAP, MA, and CDC benefits at all times relevant to this hearing.
2. Claimant's case came due for a redetermination in May 2013. On May 14, 2013, the department mailed Claimant a Redetermination form (DHS 1010), requesting that Claimant complete and return the form along with any required proofs to the department before her scheduled telephone interview on June 4, 2013 at 1:30 p.m. The Redetermination form further advised that Claimant's benefits may be expired, canceled, or reduced if she does not keep her appointment, return the completed form and submit all required forms by the due date. The Redetermination form further advised that if Claimant does not understand the form and needs help completing it, she must contact her specialist before the due date. (Department Exhibit 1)
3. Claimant did not submit her completed Redetermination form by the June 4, 2013 deadline and did not participate in her June 4, 2013 telephone

interview or call in advance of the interview to reschedule it. ( Department Exhibit 3)

4. On June 4, 2013, the department mailed Claimant a Notice of Missed Interview (DHS 254) informing Claimant that she missed her June 4, 2013 interview for re determining her FAP benefits. The Notice further advised Claimant that it was her responsibility to reschedule the interview before June 30, 2013 by contacting her specialist, [REDACTED] at [REDACTED] (Department Exhibit 2)
5. On June 17, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) notifying Claimant that her CDC and MA benefits would be closed effective June 16, 2013 and July 1, 2013, respectively, because she failed to return the redetermination form that was mailed to her for purposes of determining her continued eligibility for the programs. (Department Exhibit 5)
6. On June 21, 2013, Claimant left a voice email with her specialist at [REDACTED] regarding her redetermination. (Department Exhibit 4)
7. On July 1, 2013, the department closed Claimant's FAP benefits case effective July 1, 2013 due to her failure to provide the information requested in the redetermination review.
8. On July 1, 2013, Claimant requested a hearing contesting the department's closure of her FAP, MA, and CDC benefits. (Hearing Request).
9. On July 15, 2013, the department received from Claimant her completed Redetermination paperwork. (November 7, 2012 hearing testimony, DHS representative Cathy Burr)

### **CONCLUSIONS OF LAW**

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 administers the FAP

program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001- 3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Child Development and Care (CDC) program was established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The department provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400. 5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department policy provides that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. This includes completion of the necessary forms. BAM 105. Department policy further states that CDC payments will not be made until all eligibility and need requirements are met and care is being provided by an eligible provider. BEM 706. Eligibility and need requirements can not be determined until all forms have been received by the department. BEM 702. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. 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. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. BAM 130. For MA, if the client cannot provide the verification despite a reasonable effort, the time limit is extended up to three times. 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.

In the instant case, Claimant is disputing the department's closure of her FAP, CDC, and MA benefits due to her failure to complete her redetermination paperwork and telephone interview (for FAP eligibility) by the June 4, 2013 deadline and her failure to reschedule her telephone interview by the June 30, 2013 extended deadline.

At the August 7, 2013 hearing, the department's representative, [REDACTED], testified that Claimant's timely completion of the redetermination paperwork is required in order that the department may determine her continued eligibility for the FAP, CDC, and MA programs. Ms. [REDACTED] further testified that Claimant's participation in the telephone interview is an additional requirement for purposes of determining Claimant's eligibility for the FAP program, however such an interview cannot occur before Claimant's submittal of her completed redetermination paperwork. It is for this reason, Ms. [REDACTED] testified, that Claimant's CDC and MA benefits were closed on June 17, 2013, following Claimant's failure to submit her redetermination paperwork by the June 4, 2013 deadline, and Claimant was given until June 30, 2013 to reschedule her interview and submit her redetermination paperwork for FAP eligibility. Ms. [REDACTED] further testified that she conducted a call log inquiry of Claimant's case specialist's telephone extension and determined that Claimant left one voicemail for Ms. Winnell on June 21, 2013 regarding her redetermination. Ms. [REDACTED] was not present at the hearing and the department did not provide any case comments indicating that Ms. [REDACTED] returned Claimant's June 21, 2013 voicemail.

Also at the August 7, 2013 hearing, Claimant testified that, due to ongoing mail problems with her neighbor's children, Claimant did not receive the redetermination paperwork until July 13, 2013, at which time she completed and returned the form to the department on July 15, 2013. Claimant further testified that she was aware of her telephone interview on June 4, 2013 and attempted to contact her specialist several times before and after the scheduled interview in an effort to reschedule it but her specialist never returned her calls.

At this Administrative Law Judge's request, Ms. [REDACTED] conducted an office-wide call log inquiry for the time period in question, which inquiry revealed that Claimant called the Berrien County office's main line on June 5, 2013 but did not call her case specialist's extension until June 21, 2013, at which time she left her specialist a voicemail. (Department Exhibit 5) Thereafter, prior to the July 1, 2013 closure of her FAP case, Claimant called her case specialist's extension three times on June 27, 2013 and three times on July 1, 2013, but did not leave a voicemail message.

Testimony and other evidence must be weighed and considered according to its reasonableness. *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). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). 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. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and

substantial evidence presented during the August 7, 2013 hearing, it was Claimant's responsibility to ensure that she received and timely responded to paperwork that was timely mailed to her by the department at her known address on file with the department. Indeed, Claimant's testimony that she was aware of her June 4, 2013 telephone interview and attempted to call and reschedule it suggests that she did in fact timely receive the redetermination paperwork, which included notice of the telephone interview. Consequently, the department acted in accordance with policy in closing Claimant's FAP, CDC, and MA benefits for failure to timely complete the redetermination paperwork and, with respect to the FAP program, failure to also complete the telephone interview.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in closing Claimant's FAP, CDC, and MA benefits for failure to timely complete the redetermination paperwork and, with respect to the FAP program, failure to also complete the telephone interview. Accordingly, the department's determination is **UPHELD**.

**IT IS SO ORDERED.**

/s/  
Suzanne

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D. Sonneborn  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: August 9, 2013

Date Mailed: August 13, 2013

**NOTICE:** Michigan Administrative Hearings 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 Order. MAHS 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 this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System  
Recons ideration/Rehearing Request  
P.O. Box 30639  
Lansing, MI 48909-07322

SDS/hj

cc:

