

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20147116
Issue No.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: November 21, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 21, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) cases due to a failure to comply with the verification requirements?

FINDINGS OF FACT

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

1. Claimant received FAP and MA benefits.
2. On August 13, 2013, the Department mailed Claimant a redetermination packet concerning her FAP and MA cases.
3. Claimant was required to submit requested verification by September 3, 2013.
4. On September 3, 2013, the Department mailed Claimant a Notice of Missed Interview (DHS-254) which indicated that Claimant missed her telephone interview and that she must reschedule a telephone interview before September 30, 2013 or face closure of her FAP.

5. The Department did not receive Claimant's redetermination packet.
6. On September 19, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605), which closed Claimant's FAP & MA cases effective October 1, 2013 due to failure to return the redetermination packet.
7. On October 17, 2013, Claimant filed a hearing request, protesting the Department's action.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Department must periodically redetermine an individual's eligibility for active programs. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210. A complete redetermination is required at least every 12 months. BAM 210. However, the client must complete a DHS-1171, Assistance Application, to request a program that is not active at the time of redetermination. BAM 210. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications; see BAM 130, Obtaining Verification. BAM 210.

An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BAM 210.

For FAP, benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. BAM 210. If the client does not complete the redetermination process, the Department will allow the benefit period to

expire. BAM 210. The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, DHS-2063B, Food Assistance Benefits Redetermination Filing Record, or other redetermination document. BAM 210. If a CDC group is active for other programs, Bridges will set the CDC redetermination date to be the same redetermination date as the other program if 12 months or less. BAM 210.

For purposes of MA, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210. Also, the redetermination month is 12 months from the date the most recent complete application was submitted. BAM 210. In an MA-Group 2 Persons Under 21 case, if a member will reach age 21 before the month the case is scheduled to be redetermined, an ex parte review (see glossary) should begin at least 90 days prior to the date the member turns 21; see BAM 220. BAM 210.

For FAP, 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. BAM 210. The Department worker is required to 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. BAM 210.

For 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. BAM 210. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview. BAM 210. The Department worker must conduct a telephone interview at redetermination before determining ongoing eligibility. BAM 210. However, the Department should conduct an in-person interview if one of the following exists: (1) the client requests one or (2) it is determined appropriate (i.e., information on the application is suspected to be fraudulent). But the Department shall not require an in-office interview if the client is experiencing a hardship¹ which prevents an in-office interview. BAM 210. Instead, the Department shall conduct the in-person interview at the client's home or another agreed upon location; or (3) the specialist is processing a joint SDA/RCA and FAP redetermination; see Jointly Redetermined SDA/RCA and FAP Cases in BAM 210. When conducting a telephone interview, the Department worker should ask the caller a question only the head of household could answer (such as last four digits of their Social Security number, date of birth, etc.) to ensure the identity of the caller. BAM 210.

Bridges generates a redetermination packet to the client 3 (three) days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210. Bridges sends a DHS-2063B, Continuing Your Food Assistance Benefits, to FAP clients for whom FIP, SDA, MA, AMP, and/or TMAP are **not** active. BAM 210. The packet is sent to the mailing address in Bridges. The packet is sent to the physical address when

¹ Hardship conditions include but are not limited to: illness, transportation difficulties, work hours. BAM 210.

there is no mailing address. BAM 210. The packet is also sent to the MA authorized representative on file. BAM 210.

For all programs, a redetermination/review packet is considered complete when **all** of the sections of the redetermination form including the signature section are completed. BAM 210. When a complete packet is received, the Department worker shall record the receipt in Bridges as soon as administratively possible. BAM 210. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210.

If the redetermination packet is not logged in by the negative action cutoff date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. BAM 210.

For FAP only, if the redetermination packet is not logged in by the last working day of the redetermination month, Bridges automatically closes the EDG and a DHS-1605 is not generated. BAM 210.

In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file the redetermination through MI Bridges or file either a DHS-1010, Redetermination, DHS- 171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month. **Exception:** If the client's redetermination materials are mailed late, the timely filing date is 17 days **after** the materials are mailed. **Example:** Madison's FAP redetermination is due in July. The redetermination materials are mailed July 6th with a due date of July 16th on the DHS-3503. Madison returns all necessary items needed to complete her review on July 20th. Her filing date is timely because her review materials were mailed late. Her benefits must be available to her on the scheduled issuance date. BAM 210.

For MA, verifications are due the same date as the redetermination/review interview. BAM 210. When an interview is not required, verifications are due the date the packet is due. BAM 210. Bridges allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the 10th day falls on a weekend or holiday, the verification would not be due until the next business day. BAM 210.

For FAP, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210. If the 10th day falls on a weekend or holiday, the verification will not be due until the next business day. BAM 210. If verifications are provided by the required deadline but too late for normal benefit issuance, benefits must be issued within five workdays. BAM 210.

The group loses their right to uninterrupted FAP benefits if they fail to do any of the following: (1) file the FAP redetermination by the timely filing date; (2) participate in the scheduled interview; (3) submit verifications timely, provided the requested submittal date is **after** the timely filing date. BAM 210. Any of these reasons can cause a delay in

processing the redetermination. When the group is at fault for the delay, the redetermination must be completed in 30 days. BAM 210.

Here, the Department contends that Claimant failed to turn in a redetermination packet which caused her FAP and MA cases to close. Claimant, on the other hand, contends that she went to [REDACTED] and mailed the redetermination packet. Claimant could not remember a specific date.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The evidence shows the Department's evidence to be persuasive and the Department representative's testimony to be more credible than that of Claimant. Claimant has failed to make a reasonable effort to provide all requested verifications within the required time period.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly closed Claimant's FAP and MA cases.

DECISION AND ORDER

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

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 21, 2013

Date Mailed: November 22, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/aca

cc:

