

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-12812
Issue No(s): 2002; 3002
Case No.: [REDACTED]
Hearing Date: December 19, 2013
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 December 19, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Attorney [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits for failing to timely return the Redetermination?

FINDINGS OF FACT

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

1. On September 16, 2013, the Department mailed Claimant a Redetermination Telephone Interview and Redetermination, informing Claimant of a telephone interview scheduled for 8:45 AM on October 1, 2013. (Dept Ex 1, pp 10-13).
2. On October 1, 2013, the Department mailed Claimant a Notice of Missed Interview informing Claimant that it was now Claimant's responsibility to reschedule the interview before 10/31/13, or her benefits would be denied. (Dept Ex 1, p 15).
3. On November 15, 2013, Claimant submitted a Request for a Hearing indicating that her husband had turned in the Redetermination and paperwork before the due date. In addition, Claimant wrote that she was supposed to have a telephone interview on 10/1/13 at 8:45AM, and she called at 9:15AM, but her call was never returned.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

As an initial matter, the Department failed to submit the Notice of Case Action in this case file.

The Departmental representative admitted that Claimant was not called on 10/1/13 because the Department had not received the Redetermination. The Departmental representative explained that if they do not receive the Redetermination, they do not call the Claimant.

Claimant credibly testified that she waited for the telephone interview on 10/1/13 at 8:45AM and when the Department failed to call, she called and left a message that was not returned. The Department indicated that they do not call Claimant's unless they have received the Redetermination forms.

Claimant's representative indicated that prior to going on the record, Claimant requested the Department check their log to look for Claimant's husband's name. The Department did so, found Claimant's husband's name and then found the missing documents, minus the Redetermination form.

Based on Claimant's hearing request submitted on November 15, 2013, indicating her husband had turned in the Redetermination and paperwork prior to the due date, and the department's subsequent finding of the paperwork on the morning of the hearing as Claimant attested to, this Administrative Law Judge finds the Department also timely received the Redetermination in question with the paperwork that Claimant's husband timely turned in.

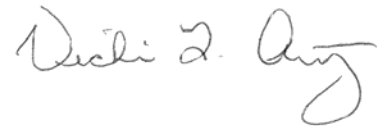
Therefore, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP and MA benefits.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Approve Claimant's Redetermination back to the date of receipt of the paperwork dropped off by Claimant's husband on 9/30/13, and issue any back FAP and MA benefits to Claimant that she may otherwise be entitled to.



Vicki L. Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 2, 2014

Date Mailed: January 3, 2014

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

VLA/las

cc:

