

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201326670
Issue No: 3008
Case No: [REDACTED]
Hearing Date: February 27, 2013
Jackson 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 January 28, 2013. After due notice, a telephone hearing was held on February 27, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], a family independence manager with the department's Jackson County office.

ISSUE

Whether the Department of Human Services (department) properly closed Claimant's Food Assistance Program (FAP) benefits for failure to complete the redetermination process?

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 benefits at all times relevant to this hearing.
2. On November 13, 2012, the department mailed Claimant a Redetermination Telephone Interview notice (DHS-574) and a Redetermination form (DHS-1010), requesting that Claimant complete the Redetermination form and return it to his specialist before his scheduled telephone interview on December 4, 2012 at 9:30 a.m. The Redetermination Telephone Interview notice further advised Claimant that his specialist will call him on the scheduled telephone interview date and time at the phone number he lists on the redetermination form on page 4 to complete the telephone interview. (Department Exhibits A, B)

3. Claimant did not return the completed Redetermination form to his case specialist before his scheduled December 4, 2012 telephone interview. (Department Exhibit D)
4. On December 4, 2012, the department mailed Claimant a Notice of Missed Interview (DHS-254), informing Claimant that he missed his scheduled redetermination interview. The department further informed Claimant that it was his responsibility to reschedule his interview before December 31, 2012 or his redetermination would be denied. (Department Exhibit B)
5. On December 31, 2012, the department closed Claimant's FAP benefits for failure to complete the redetermination paperwork and interview. (Department Hearing Summary)
6. On January 29, 2013, Claimant requested a hearing contesting the department's closure of his FAP benefit case.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 of Human Services (DHS or 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).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. 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. (Emphasis added).

In the instant case, Claimant is disputing the department's closure of his FAP benefits for failure to provide the requested redetermination paperwork. At the February 27, 2013 hearing, Claimant testified that, after missing his December 4, 2012 redetermination telephone interview, he called his case specialist, [REDACTED], almost daily during the week of December 11, 2012 to inquire regarding the status of his case. Claimant further testified that [REDACTED] returned his call sometime that week and instructed him to submit his redetermination paperwork, which Claimant subsequently did. Claimant further testified that after submitted his redetermination paperwork, he continued to call [REDACTED] throughout the remainder of December 2012 to inquire into the status of his case and [REDACTED] failed to return his calls or reschedule his interview.

[REDACTED] did not attend the February 27, 2013 hearing and the department's representative, [REDACTED], lacked personal knowledge regarding the call log history between Claimant and [REDACTED].

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 February 27, 2013 hearing, the department did not act in accordance with policy in closing Claimant's FAP benefits case for failure to timely provide his completed redetermination paperwork.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in closing Claimant's FAP benefits case for failure to timely provide his completed redetermination paperwork. The department's actions are therefore **REVERSED** and the department shall immediately reinstate and redetermine Claimant's FAP benefits and issue supplement checks for any months he did not receive the correct amount of benefits if he was otherwise entitled to them.

It is **SO ORDERED**.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 1, 2013

Date Mailed: March 4, 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 60 days of the filing of the original request.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision

201326670/SDS

Request must be submitted through the local DHS office or directly to MAHS by mail at:

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

SDS/cr

cc:

