

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

**IN THE MATTER OF:**



Reg. No.: 201341088  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: May 15, 2013  
County: Wayne (41)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Selma Goode, Claimant's authorized hearing representative (AHR). Participants on behalf of Department of Human Services (Department) included Lavita Davidson, Eligibility Specialist, and Cynthia Allen, Assistance Payment Supervisor.

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

**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 recipient of FAP.
2. On February 28, 2103, the Department closed Claimant's FAP case because she had failed to complete a redetermination.
3. On April 16, 2013, Claimant filed a request for hearing disputing 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 (FS) 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 (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

As a preliminary matter, it is noted that although Claimant and her AHR requested an in-person hearing, the hearing was scheduled as a telephone hearing. Both parties agreed to waive their requests for an in-person hearing and proceed with the telephone hearing.

At the hearing, the Department testified that Claimant's FAP closed on February 28, 2013, because Claimant had failed to submit completed mid-certification and redetermination forms. Clients assigned a 24-month benefit period must complete a mid-certification contact notice (DHS-2440A). BAM 210 (November 2012), p 7. If the DHS-2440A is not returned, the Department shortens the FAP benefit period and sends the client a redetermination packet. BAM 210, p 9. The client must complete the redetermination in order for the Department to determine the client's continued eligibility for benefits. BAM 210 (November 2012), pp 1. A FAP client must also complete a phone interview. BAM 210, p 3. FAP benefits stop at the end of the benefit period unless the client completes a redetermination and the Department certifies a new benefit period. BAM 210, p 2.

In this case, the Department testified that it sent Claimant a mid-certification on December 3, 2012, and when Claimant did not return the mid-certification by the due date, it sent her a redetermination on January 31, 2013, with a February 15, 2013 due date. The Department testified that it subsequently sent Claimant a February 15, 2013 Notice of Missed Appointment. Claimant denied receiving any of the notices sent by the Department. Although the Department provided a printout from its system showing that its system had generated and sent the above-listed documents to Claimant and testified that the documents were sent to Claimant's address, it did not provide a copy of the documents in the hearing packet to establish that the notices were properly addressed. Because the Department failed to establish that the notices were properly addressed to Claimant, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case effective February 28, 2013, for failure to complete the redetermination process.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, 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 case.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case effective March 1, 2013;
2. Begin reprocessing Claimant's FAP redetermination in accordance with Department policy;
3. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from March 1, 2013, ongoing;
4. Notify Claimant in writing of its decision in accordance with Department policy.



**Alice C. Elkin**  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 5/23/2013

Date Mailed: 5/23/2013

**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

ACE/hw

cc:

