

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201352053
Issue No: 3008
Case No: [REDACTED]
Hearing Date: July 10, 2013
Macomb County DHS (36)

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 June 5, 2013. After due notice, a telephone hearing was held on July 10, 2013. Claimant appeared and provided testimony. Claimant's witness, [REDACTED], also appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist with the department's Macomb 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 April 15, 2013, 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 as well as be available for the scheduled telephone interview on May 3, 2013 at 11:00 a.m. The Redetermination Telephone Interview notice further advised Claimant that his specialist will call him on the scheduled telephone interview date and time unless Claimant

calls his specialist before his appointment to advise that he cannot keep the appointment. (Department Exhibit 2)

3. Claimant's specialist attempted to contact Claimant on May 3, 2013 at 11:00 a.m. for his redetermination interview and could not reach Claimant and therefore left Claimant a voicemail. (Department Exhibit 2)
4. Claimant's specialist again attempted to contact Claimant on May 13, 2013 for his redetermination interview and could not reach Claimant and therefore left Claimant a voicemail. (Department Exhibit 2)
5. On May 31, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his FAP benefits case would be closed effective June 1, 2013 due to his failure to complete the redetermination interview requirement. (Department Exhibit 1)
6. On June 5, 2013, Claimant requested a hearing contesting the department's closure of his FAP benefit case.

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 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 complete the redetermination interview.

At the July 10, 2013 hearing, the department's representative and Claimant's case specialist testified that she attempted to reach him on May 3, 2013, at the scheduled date and time of his redetermination interview, and again on May 13, 2013 and, each time, she could not reach Claimant and left him a voicemail instructing him to contact her for his redetermination interview.

In his testimony, Claimant disagreed that his specialist attempted to reach him on May 3, 2013, but acknowledged that he did receive the voicemail that she left for him on May 13, 2013. Claimant further testified that he did not return her call until two weeks later, on May 31, 2013, because he was without access to a telephone to return her call. Claimant further testified that he was unable to go into the DHS branch office during that two week period and make contact with his specialist in person because he lacked transportation. However, Claimant's witness and half-sister, [REDACTED], testified that she has a cell phone that Claimant could have used to return his specialist's May 13, 2013 telephone call at some point between May 13, 2013 and May 31, 2013.

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 July 10, 2013 hearing, Claimant's explanation for his failure to timely contact his specialist following receipt of her May 13, 2013 voicemail regarding completion of the redetermination process for continued eligibility of

FAP benefits to be unreasonable and lacking in credibility. Accordingly, the department acted in accordance with policy in closing Claimant's FAP benefits case effective June 1, 2013 for failure to timely complete the redetermination process.

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 benefits case effective June 1, 2013 for failure to timely complete the redetermination process. Accordingly, the department's action in this regard is **UPHELD**.

IT IS SO ORDERED.

/s/_____

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

Date Signed: July 11, 2013

Date Mailed: July 12, 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 affect the substantial rights of Claimant;

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- 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
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

