

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 2013-55225
Issue No.: 2000; 3008
Case No.: ██████████
Hearing Date: July 29, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 July 29, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective June 1, 2013, ongoing?

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 benefits. See Exhibit 1.
2. On April 30, 2013, the Department sent Claimant a Redetermination, which was due back by May 15, 2013.
3. On April 30, 2013, the Department also sent Claimant a Redetermination Telephone Interview, which was scheduled on May 15, 2013. Exhibit 1.
4. On May 1, 2013, Claimant sent the Department a completed redetermination.
5. On May 15, 2013, the Department did not contact the Claimant regarding the telephone interview.

6. On May 15, 2013, the Department sent Claimant a Notice of Missed Interview. Exhibit 1.
7. On June 21, 2013, Claimant filed a hearing request, protesting her Medical Assistance (MA) and FAP benefits. Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the 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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

As a preliminary matter, Claimant's hearing request also addressed her MA benefits. See Exhibit 1. However, Claimant testified that she is no longer disputing her MA benefits. Thus, pursuant to Mich Admin Code, R 400.906(1), Claimant's MA hearing request is hereby DISMISSED.

In this case, Claimant was an ongoing recipient of FAP benefits. See Exhibit 1. On April 30, 2013, the Department sent Claimant a Redetermination, which was due back by May 15, 2013. On April 30, 2013, the Department also sent Claimant a Redetermination Telephone Interview, which was scheduled on May 15, 2013. Exhibit 1. On May 1, 2013, Claimant sent the Department a completed redetermination. On May 15, 2013, the Department did not contact the Claimant regarding the telephone interview. On May 15, 2013, the Department sent Claimant a Notice of Missed Interview. Exhibit 1.

A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210 (November 2012), p 1. The Department generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210, p. 5. The packet is sent to the mailing address in the system. BAM 210, p. 5. The packet is sent to the physical address when there is no mailing address. BAM 210, p. 5. Redetermination/review forms may include a DHS-1010, Redetermination. BAM 210, p. 5.

Additionally, a FAP client must also complete a phone interview. BAM 210, p. 3. Before the Department conducts the FAP interview, it obtains a completed redetermination packet from the client. BAM 210, p. 9. 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, p. 3. If the client misses the interview, [the Department] sends a DHS-254, Notice of Missed Interview. BAM 210, p. 3. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the EDG. BAM 210, p. 9. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 9.

At the hearing, the Department testified that it only knew that a redetermination was sent to Claimant. However, due to it being a different caseworker, the Department was unable to provide testimony or documentation indicating whether the Department received the redetermination.

Claimant testified that she sent the Department a completed redetermination on May 1, 2013. Claimant testified that the Department never contacted her on the May 15, 2013 scheduled interview time. See Exhibit 1. Claimant testified that she contacted the Department on that date and that her caseworker informed her that she had not received the redetermination. Claimant further testified that her caseworker told her to contact her five days later to see if the Department received the redetermination. Claimant testified that she contacted the Department five days later and left a voicemail for the Department. Claimant testified that she never received any contact back from the Department.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FAP benefits effective June 1, 2013, ongoing. First, the Department was unable to provide any evidence or testimony if whether it received the redetermination. Second, Claimant's caseworker was not present at the hearing to rebut her testimony. Third, Claimant credibly testified that she submitted the redetermination before the benefit period ended on May 31, 2013. Further, Claimant credibly testified that she contacted the Department without any contact back from the Department. .

DECISION AND ORDER

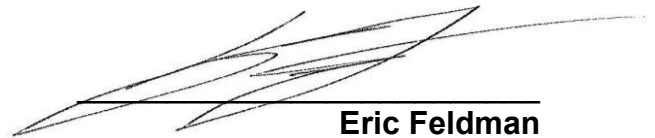
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when it closed Claimant's FAP benefits effective June 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

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 as of June 1, 2013, ongoing;
2. Begin recalculating the FAP budget for June 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from June 1, 2013, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.

Based on the above discussion, it is ALSO ORDERED that Claimant's MA hearing request is hereby DISMISSED pursuant to Mich Admin Code, R 400.906(1).



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 7, 2013

Date Mailed: August 7, 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 affect the substantial rights of the claimant,
 - failure of the ALJ to address other relevant issues in the hearing decision.

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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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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