

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-17877
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: March 4, 2014
County: Washtenaw #20

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on March 4, 2014, from Ypsilanti, Michigan. Participants on behalf of Claimant included Claimant and her authorized hearings representative from the [REDACTED]

[REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly allow Claimant's Food Assistance Program (FAP) benefit case to close based upon its determination that Claimant failed to provide redetermination information in a timely manner?

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 a Food Assistance Program benefits recipient.
2. Claimant's Food Assistance Case was scheduled for redetermination.
3. On September 16, 2013, the Department caseworker sent Claimant a redetermination form with information due back to the Department by October 1, 2013. The notice also notified Claimant that she had a telephone interview on October 1, 2013. (Department Exhibits 3 – 6).
4. On October 1, 2013, the Department had not received redetermination information from the Claimant.

5. Claimant did not contact the Department before October 1, 2013.
6. The notice of redetermination did not return to the Department as undeliverable.
7. On October 1, 2013, the Department caseworker sent Claimant notice of a missed interview indicating that she needed to reschedule the interview before October 31, 2013, or her application/redetermination would be denied. (Department Exhibit 7).
8. On October 7, 2013, Claimant authorized [REDACTED] to contact the Department caseworker. [REDACTED] [REDACTED] emailed [REDACTED] [REDACTED] stating: "[REDACTED] asked me to e-mail you regarding her phone call verification. She missed the phone call and wanted to set up a follow-up call. Can you let me know what day and time you would like to reschedule it to? I can then pass that along to [REDACTED]. She can also be reached at [REDACTED]." (Claimant's Exhibit E(i)).
9. On October 16, 2013, [REDACTED] again emailed [REDACTED] stating: "I am following up in regards to my previous email on [REDACTED] phone recertification. Can you please touch base with either myself or [REDACTED] on when you wish to reschedule her phone call?" (Claimant's Exhibit E(ii)).
10. On October 31, 2013, the certification period for food assistance program benefits expired and her food assistance program benefits were canceled.
11. On November 15, 2013, [REDACTED] emailed [REDACTED] and her Supervisor, [REDACTED] stating: "Is there any news on this case? I've emailed [REDACTED] two times already on top of the several times that the Claimant has tried to reach her. The Claimant is on permanent disability and so very little if anything ever changes with her finances. Please help us figure out what is going on. Her SNAP assistance is currently turned off." (Claimant's Exhibit E(iii)).
12. On November 15, 2013, [REDACTED] [REDACTED] responded to [REDACTED] [REDACTED]: "[REDACTED] FAP benefits have been denied for failure to meet interview requirements. Client may reapply at any time." (Claimant's Exhibit E(iv)).
13. On November 15, 2013, at 2:14 pm, [REDACTED] again emailed [REDACTED] stating: "there is also the issue that she didn't turn in the redetermination form, in order for me to call her." (Claimant's Exhibit E (v)).
14. On November 20, 2013, [REDACTED] emailed [REDACTED] a copy of Claimant's recertification forms with the words no change written across them and stated: "I have attached a copy of her recertification forms. Can you please send me a time and date for the phone interview and I will inform the client of the appointment?" (Claimant's Exhibit E(vi)).
15. On December 3, 2013, Claimant filed a request for hearing to contest the Department's negative 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), 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.

Claimant alleges that she has [REDACTED] and that she does not read well. Claimant stated that she has been determined to be disabled by the Social Security Administration and receives RSDI income as a result. She stated that she has been receiving Food Assistance Program benefits for a long time and that on her redetermination forms she has, in the past, been allowed to place "no change" rather than filling out the forms completely. She states that she received the documents in the mail on October 2, 2013 and immediately called her caseworker to request assistance with the process. She states that she went to [REDACTED] so that he could assist her in the redetermination process and that [REDACTED] contacted [REDACTED] via email because Claimant does not have access to a computer.

[REDACTED] testified that he is able to read and write and that he did contact the Department on several occasions to find out what Claimant needed to do to have her Food Assistance Program benefits reinstated.

The Department caseworker testified she did notify [REDACTED] and [REDACTED] of what needed to be done in order for Claimant's Food Assistance Program benefits to be reinstated. The Department caseworker also testified that Claimant's Food Assistance Program benefits expired October 31, 2013 when the certification period ended.

Pertinent Department policy states as follows: A complete redetermination is required at least every 12 months. Bridges sets the redetermination date according to benefit periods; BAM, Item 201, page 1.

FAP benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. **If the client does not begin the redetermination process, allow the benefit period to expire.** (emphasis added) The redetermination process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; DHS-2063B, Food Assistance Benefits Redetermination Filing Record. BAM, Item 210, page 2.

Bridges 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. Bridges sends a DHS-2063B, Continuing Your Food Assistance Benefits, to **FAP** clients for whom FIP,

SDA, MA, AMP, and/or TMAP are **not** active. The packet is sent to the mailing address in Bridges. The packet is sent to the physical address when there is no mailing address. The packet is also sent to the MA authorized representative on file.

Redetermination/review forms may include:

- DHS-574, Redetermination Telephone Interview (FIP and FAP).
- DHS-1010, Redetermination (all programs).
- DHS-1046, Semi-Annual Contact Report (FAP).
- DHS-1171, Assistance Application (all programs).
- DHS-2240-A, Mid-Certification Contact Notice (MA and FAP).
- DHS-2063-B, Continuing Your Food Assistance Benefits (FAP).
- DHS-4574, Medicaid Application for Long-Term Care.
- DCH-0373-D, MI Child and Healthy Kids Application.

The packet includes the following as determined by the TOA to be redetermined:

- Redetermination/review form indicated above.
- Notice of review as determined by policy.
- Interview date.
- Interview type.
- Place and time.
- Required verifications.
- Due date.
- Return envelope.

FAP Only

If the DHS-1171 and the DHS-2063-B must be manually sent, mail them **no later** than two workdays before the first day of the redetermination month. If the forms are **not** mailed within that time period, adjust the timely filing date; see FAP Timely And Untimely Filing Date in this item.

Clients may be, but are **not** required to be, interviewed before the timely filing date. BAM, Item 210, pages 6-7.

- DHS-4574, Medicaid Application for Long-Term Care.
- DCH-0373-D, MI Child and Healthy Kids Application.

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Clients may be, but are **not** required to be, interviewed before the timely filing date.

In order to receive uninterrupted benefits, (benefits available on his/her scheduled issuance date) the client must file the redetermination through MI Bridges or file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month.

Verifications are due the same date as the redetermination/review interview. When an interview is not required, verifications are due the date the packet is due.

Bridges allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the 10th day falls on a weekend or holiday, the verification would not be due until the next business day.

Bridges gives timely notice of the negative action if the time limit is **not** met.

Verifications must be provided by the end of the current benefit period **or** within 10 days after they are requested, whichever allows more time. If the 10th day falls on a weekend or holiday, the verification will not be due until the next business day. BEM, Item 210, page 14

The group loses its right to uninterrupted FAP benefits if it fails to do any of the following:

- File the FAP redetermination by the timely filing date.
- Participate in the scheduled interview.
- Submit verifications timely, provided the requested submittal date is **after** the timely filing date.

Any of these reasons can cause a delay in processing the redetermination. When the group is at fault for the delay, the redetermination must be completed in 30 days.

If there is no refusal to cooperate and the group complies by the 30th day, issue benefits within 30 days. Benefits are not prorated. BEM, Item 210, page 17

Department policy clearly requires that if a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. Proceed as follows if the client takes the required action within 30 days after the end of the benefit period:

- Re-register the redetermination application using the date the client **completed** the process.
- If the client is eligible, prorate benefits from the date the redetermination application was registered. BEM, Item 210, pages 17-18.

Department policy clearly requires that Claimant complete redetermination documents within ten days of the notice of redetermination. In this case, Claimant did not complete the redetermination process by October 31, 2013, when her eligibility certification period ended. Thus, there was no negative action taken by the caseworker in this case. The Food Assistance Program case was left open until the end of the certification period, as was appropriate.

Although, Department policy at BEM, Item 115, page 2, requires a local office to assist clients who need help and request help to complete an application form, the evidence on the record does not indicate that Claimant requested this assistance after being notified of redetermination until November 15. Beyond the Claimant's bald testimony, there is no evidence on the record that the Claimant contacted the Department caseworker by a telephone call before October 31, 2013. There is evidence that Claimant's [REDACTED] cate, [REDACTED], did contact the Department October 7, 2013 by email. He did not request assistance filling out an application. He simply asked what needed to be done to reschedule her phone call verification, because Claimant missed her appointment. After several email correspondence, the Department caseworker accepted [REDACTED] submission of the Claimant's redetermination packet via email on November 16, 2013. The Department caseworker reviewed the documents and notified [REDACTED] on November 21, 2013, that the redetermination information was submitted too late, it was incomplete and missing the signature page. The Department caseworker also informed [REDACTED] that the Claimant could reapply for benefits. Claimant reapplied for Food Assistance Program benefits on December 10, 2013, nearly a month after she and her [REDACTED] were notified for the second time that she was entitled to reapply for benefits. Claimant and [REDACTED] conceded on the record that the redetermination packet was not completed.

Department case notes indicate that in April 2013, a redetermination reports review for Medical Assistance (MA) was conducted, pending verification of assets for FAP. Claimant reported a shelter change. The notes also indicate that June 11, 2013, shelter verification was sent [REDACTED]. (Department Exhibit #13). These notes indicate that Claimant had been through at least one prior redetermination process and that [REDACTED] assisted her in providing the verification information to the Department. Thus, both [REDACTED] and Claimant were aware of the requirement to provide verification information to the Department even before the redetermination process was begun in September 2013.

It should be noted for the record that Claimant requested an adjournment of this hearing, in her own handwriting, on January 21, 2014, stating that she was recovering from surgery. The request indicates that Claimant is able to read and write sufficiently to communicate effectively. There was no evidence presented on the record beyond Claimant's bald testimony that her disability is related to her inability to read and write.

In addition, Claimant's [REDACTED], affirmed that he is able to read and write. The redetermination notice clearly states the Claimant could renew her benefits online or by mail. She was to complete all pages, fine and date the form and return the redetermination documents with copies of all proofs. The proofs could be taken to the local DHS office, returned by mail or uploaded online of the October 1, 2013 due date. The Department caseworker gave Claimant the opportunity to turn in the completed redetermination paperwork, which she did not do. [REDACTED] did not complete the documents for her before October 31, 2013 and in fact, turned the incomplete documents in to the Department in November 2013. Even after the Department caseworker notified [REDACTED] that the recertification forms had not been completed and returned, the documents were never completed in the proofs submitted to the Department. Claimant and her advocate, [REDACTED], had ample opportunity between October 2, 2013 and October 31, 2013 to complete the redetermination documents and turn them in to the Department. Claimant's testimony she was unable to understand or read the documents is not credible under the circumstances. Even assuming Claimant's testimony was credible and she was unable to understand or read the documents, her advocate [REDACTED], did testify on the record that he was able to read and write sufficiently to complete the redetermination documents.

Evidence on the record shows that this was a redetermination, which necessarily establishes that Claimant has filled out an application or had someone assist her in filling out applications in the past for benefits. Evidence on the record also indicates that Claimant has since filed an application and had her Food Assistance Program benefits reinstated, which indicates that she or someone who assists her knows how to fill out applications. Claimant also testified that in the past she's been allowed to write "no change" on the redetermination documents and turn them back into the Department. Claimant's allegation that she has been allowed to put "no change" on her redetermination forms in the past somehow binds the Department to continue to excuse her from Department policy is an equitable argument to excuse Claimant from having to comply with the Department policy requirements.

The Claimant's grievance centers on dissatisfaction with the Department's current policy. The Claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, and overrule promulgated regulations or overrule or make exceptions to the Department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Administrative Law Judge has no equity powers. Therefore, the Administrative Law Judge finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it allowed Claimant's food assistance program benefit certification period to expire and benefits to close based upon its determination that Claimant failed to provide redetermination information.

DECISION AND ORDER

The Administrative Law Judge, 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 acted in accordance with Department policy when it allowed Claimant's Food Assistance Program benefits to expire in close under the circumstances. The Department has established its case by a preponderance of the evidence.

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



Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/10/14

Date Mailed: 3/10/14

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

LYL/tb

cc:

