

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-26015
Issue No.: 3002, 3008
Case No.: [REDACTED]
Hearing Date: March 6, 2014
County: Jackson

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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, telephone hearing was held on March 6, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUES

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to failure to return a redetermination packet?

Did the Department properly determine Claimant's monthly FAP allotment for the month of January, 2014?

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 active for FAP benefits with a group size of 1.
2. On October 15, 2013, the Department mailed Claimant a Redetermination (DHS-1010) which was due by November 1, 2013.¹
3. On November 1, 2013, the Department mailed Claimant a Notice of Missed Interview (DHS-254) which asked Claimant to contact her caseworker and reschedule her interview before November 30, 2013.
4. On December 23, 2013, the Department received online Claimant's assistance application requesting FAP benefits.

¹ At this time, the Department also mailed Claimant a Redetermination Telephone Interview (DHS-574) form which scheduled a telephone interview for November 1, 2013 at 9:00a.m.

5. On January 7, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which: (1) approved Claimant's monthly FAP for \$ [REDACTED] for the period of December 23, 2013 through December 31, 2013; and (2) approved her monthly FAP for \$ [REDACTED] for the period of January 1, 2014 through November 30, 2015.

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.

The Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. BAM 210, p 1 (10-1-2013). Redetermination is defined as "the periodic, thorough re-evaluation of all eligibility factors to determine if the group continues to be eligible for program benefits." Bridges Program Glossary, p 54. For all programs, a complete redetermination is required at least every 12 months. BAM 210, p 1.

For 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, the Department will allow the benefit period to expire. BAM 210, p 2. For FAP, an interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p 3.

For all programs, a redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p 10. When a complete packet is received, policy requires the Department record the receipt in Bridges as soon as administratively possible. BAM 210, p 10. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p 10.

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. BAM 210, p 13.

For FAP, the group loses its right to uninterrupted FAP benefits if it fails to do any of the following: (1) file the FAP redetermination by the timely filing date; (2) participate in the scheduled interview; or (3) submit verifications timely, provided the requested submittal date is **after** the timely filing date. BAM 210, p 17. 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. BAM 210, p 17.

Here, Claimant has raised two issues. She claims that her FAP case was improperly closed and she disputes the amount of her \$ [REDACTED] monthly FAP allotment for January, 2014. The Department, on the other hand, contends that Claimant failed to timely and properly return the redetermination packet (which was due by November 1, 2013) and that she missed the telephone interview. The Department also contends that it corrected determined Claimant's monthly FAP allotment of \$ [REDACTED] for January, 2014.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge (ALJ) has carefully considered and weighed the testimony and other evidence in the record. First, this ALJ finds that the statements of the Department workers that Claimant did not provide a completed redetermination packet by November 1, 2013 to be credible. There is no other credible evidence that Claimant submitted a completed redetermination packet to the Department at any time. Under this record, the Department is authorized to allow Claimant's FAP case to close without uninterrupted benefits because Claimant failed to complete the redetermination process.

Claimant also challenged the Department's determination concerning her \$ [REDACTED] monthly FAP allotment. For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500.

The Department determines a group's benefits for a month based, in part, on a prospective income determination. BEM 505. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505. The Department will obtain input from the client whenever possible to establish this best estimate amount. BEM 505. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM 505.

All income is converted to a standard monthly amount. BEM 505. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505. If the client is paid weekly, the Department multiplies the average weekly amount by **4.3**. BEM 505. If the client is paid every other week, the Department multiplies the average bi-weekly amount by **2.15**. BEM 505.

The Department will budget the entire amount of earned and unearned countable income. BEM 550. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550. Every case is allowed the standard deduction shown in RFT 255. BEM 550. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups **with** one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554. The Department shall **not** budget expenses that require verification until the verification is provided. BEM 554.

The record reveals that Claimant did not dispute the Department's determinations of her monthly income and reported expenses for January, 2014. The record shows that Claimant was receiving monthly unearned income in the amount of \$715.00 at the time relevant to this matter. (Claimant received \$ [REDACTED] from Supplemental Security Income (SSI) plus \$ [REDACTED] for State Supplement Payment (SSP) minus a \$ [REDACTED] overpayment recovery by the Social Security Administration (SSA).) Thus Claimant's \$ [REDACTED] monthly unearned income, which is reduced by a standard deduction of \$ [REDACTED] leaves an adjusted gross monthly income of \$ [REDACTED] [Claimant did not provide verification of shelter expenses at this time.]

A claimant with a group size of 1 has a maximum net income limit of \$ [REDACTED] RFT 250. However, the \$ [REDACTED] is reduced by a 30% of net income (\$ [REDACTED] which leaves a \$ [REDACTED] monthly net benefit amount. Because Claimant had a certified group size of 1 and a total countable monthly income of \$ [REDACTED] the food issuance tables indicate that the proper monthly FAP allotment is \$ [REDACTED] See RFT 260.

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 closed Claimant's monthly FAP case for failure to complete the redetermination process and when it determined Claimant's monthly FAP benefits as \$ [REDACTED] for the month of January, 2014.

DECISION AND ORDER

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

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 12, 2014

Date Mailed: March 12, 2014

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.

2014-26015/CAP

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

CAP/las

cc:

