

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-31826
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: April 10, 2014
County: Kent

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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, a telephone hearing was held on April 10, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED] and [REDACTED] who interpreted between English and Spanish. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialist [REDACTED]. Observing were Department Analysts [REDACTED] and [REDACTED].

ISSUE

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

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 on-going FAP recipient.
2. On January 14, 2014, an appointment notice was mailed to Claimant, scheduling her for a telephone interview on February 3, 2014. (Exhibit 1 Page 2.) A Redetermination form (Exhibit 1 Pages 3-6) was also mailed that day, with a due date of February 3, 2014.
3. On February 3, 2014, the Department mailed to Claimant a Notice of Missed Interview (Exhibit 1 Page 8) instructing her to call her worker to reschedule the interview before February 28, 2014.

4. The Department did not mail a Notice of Case Action, but Claimant's FAP was closed effective March 1, 2014 because Claimant did not participate in the telephone interview or submit the completed Redetermination.
5. On five occasions between February 3 and 28, 2014, Claimant's friend [REDACTED] [REDACTED] called the Department and left messages, and on another occasion she sent an email to the Claimant's case worker, requesting help with the Redetermination. The worker did not respond because [REDACTED] was not Claimant's Authorized Representative.
6. On March 4, 2014, Claimant requested a hearing.

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 Claimant testified that she never received the notice for the telephone interview or the Redetermination form. The Claimant's friend testified that she had called five times in response to the Notice of Missed Interview and sent an email asking the Department to reach her or the Claimant. She was never called. The Department's witness testified that she did not respond to the friend's calls and email because she was waiting for the Redetermination to be submitted..

"Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The evidence is persuasive that the forms were mailed to the Claimant at her address of record. The evidence also establishes that the Claimant and her friend made a reasonable effort to respond by the deadline. It will be noted that Claimant does not speak English and during the course of the hearing it was apparent that she has comprehension problems. Her friend made at least six attempts to contact the worker, but the Department did not contact Claimant or her friend. The worker testified that she was not aware of the language barrier until the Claimant and her friend attend the pre-hearing conference. Had she called the Claimant in response to one of the messages left by her friend, the worker might well have become aware of the language barrier and been able to resolve the issue of the outstanding Redetermination form. Claimant made a reasonable effort to comply with the Department's attempts to schedule a telephone interview.

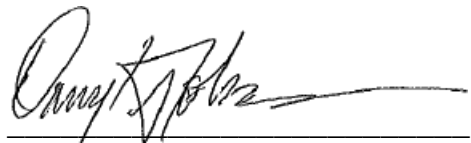
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP benefits.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Claimant's FAP benefit eligibility, from January 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 11, 2014

Date Mailed: April 11, 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.

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

DTJ/las

cc:

