

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

IN THE MATTER OF:



Reg. No.: 2014-33048
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: April 17, 2014
County: Oakland (02)

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, a telephone hearing was held on April 17, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to Claimant's failure to return the redetermination packet and/or participate in the redetermination interview?

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.
2. On January 14, 2014, the Department mailed Claimant a Redetermination (DHS-1010) along with a Redetermination Telephone Interview (DHS-574) which indicated that Claimant's specialist will contact her for a telephone interview on February 4, 2014 at 3:00pm.
3. On February 4, 2014, the Department mailed Claimant a Notice of Missed Interview (DHS-254), which indicated that Claimant missed her telephone interview and that she was to reschedule the interview with her specialist before February 28, 2014.

4. The Department allowed Claimant's FAP case to close because she allegedly failed to turn in her redetermination packet which would have afforded her uninterrupted benefits.
5. The Department received Claimant's request for hearing to dispute the FAP closure on March 10, 2014.

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 of Human Services 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 "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. When a redetermination is scheduled early, FAP benefits cannot be terminated **prior** to the end of the benefit period for failure to complete the redetermination process. BAM 210, p 8.

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. Exception: If the client's redetermination materials are mailed late, the timely filing date is 17 days **after** the materials are mailed. 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, the Department claims that Claimant's FAP case closed because Claimant failed to turn in her completed redetermination packet and had missed her telephone interview. Claimant, on the other hand, contends that she mailed her completed redetermination form to her caseworker (██████████) in January. Claimant further testified that she did not receive a telephone call from ██████████ on February 4, 2014. Claimant stated that she had been receiving FAP for several years and was familiar with the redetermination process. She indicated that she had never previously missed a redetermination deadline. The Department worker who attended the hearing was not the worker on the case and that Claimant's caseworker (██████████) was on a medical leave.

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 has carefully considered and weighed the testimony and other evidence in the record. Claimant's testimony that she mailed the completed redetermination packet to the Department in January, 2014 is credible. Claimant was had been active for FAP for several years and was intimately familiar with the redetermination process as well as the consequences of failing to return the redetermination form. In addition, Claimant's caseworker (██████████) did not attend the hearing and the Department representative who attended the hearing was unable to refute Claimant's credible testimony that she turned in the redetermination packet in January and was not contacted for the February 4, 2014 telephone interview. In addition, this Administrative Law Judge notes that Department worker ██████████ prepared the hearing summary and packet. There was a documentation record which purportedly prepared by ██████████ which noted that Claimant "was a no show for the scheduled prehearing conference." Although ██████████ name appears on the document, this document does not appear to be genuine as it was not bear ██████████ signature. The Pre-Hearing Conference (DHS-1560) document was also

problematic. This document appeared to indicate that Claimant's prehearing conference was scheduled for March 31, but someone had attempted to change the date to the 21st. This raises suspicions that Claimant was not provided with a meaningful prehearing conference which is required under BAM 600. A meaningful prehearing conference must be scheduled for the 11th day from the date DHS receives the request for hearing, unless the client and AHR chooses not to attend the prehearing conference. BAM 600, (3-1-2014) p 16. This, coupled with the fact that [REDACTED] suspicious looking documentation record, demonstrates that the Department lacks credibility in this matter. This Administrative Law Judge finds that Claimant did turn in her redetermination form and that the Department did not contact her for 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 case for failure to comply with the redetermination process.

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. The Department shall redetermine Claimant's FAP eligibility back to the date of closure.
2. To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental FAP benefits.

IT IS SO ORDERED.



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

Date Signed: April 18, 2014

Date Mailed: April 18, 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

CAP/las

cc:

