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

IN THE MATTER OF:

	Reg. No.: Issue No.: Case No.: Hearing Date: County:	14-004148 3003 July 10, 2014 MACOMB- 50-12
ADMINISTRATIVE LAW JUDGE: ROBERT J	. CHAVEZ	
<u>HEARING</u>	DECISION	
	00.9 and 400.37; 7 C .33; and 45 CFR 205 from Detroit, Michiga	FR 273.15 to 273.18; 42 5.10. After due notice, a
<u>ISS</u>	<u>UE</u>	
Did the Department properly \square deny Claimant	t's application $igotimes$ clos	se Claimant's case for:
☐ Family Independence Program (FIP)?☑ Food Assistance Program (FAP)?☐ Medical Assistance (MA)?☐ Adult Medical Assistance (AMP)?	☐ Child Develop☐ Direct Suppor	y Assistance (SDA)? ment and Care (CDC)? t Services (DSS)? ments (SSP)?
<u>FINDINGS</u>	OF FACT	
The Administrative Law Judge, based on the on the whole record, finds as material fact:	competent, material,	and substantial evidence
Claimant ☐ applied for ☐ receive ☐ FIP ☐ FAP ☐ MA ☐ AMP benefits.	d: SDA CDC	□ DSS □ SSP
 On June 1, 2014, the Department ☐ denied Claimant's application due to failure to complete the redetermina 	⊠ closed Claimant' ation process.	s case

- 3. On May 31, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
- 4. On June 5, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

Additionally, failure to complete the redetermination process for FAP benefits may result in case closure. BAM 210.

Claimant testified that he had attempted to contact the Department several times during the course of the month to complete the telephone interview that was the last required step in completing the redetermination process. Claimant testified that each time he attempted contact, his caseworker's voicemail box was full. At no point was claimant able to contact the Department despite numerous attempts.

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).

After considering claimant's testimony, and the competing testimony of the Department the Administrative Law Judge finds claimant's testimony credible and reasonable. This is not the first complaint heard by the Administrative Law Judge regarding full voicemail boxes within the Department, and it will not be the last. Furthermore, while the Department representative testifed that the Department had attempted to contact claimant several times, this was not first-hand testimony, as claimant's actual caseworker was unavailable; as such, the Department's testimony is given less weight. The Department provided no other evidence that claimant was given ample opportunity to complete the redetermination process.

Therefore, the undersigned finds that the claimant attempted to complete the redetermination process to the best of his ability, and was unable to do so due to the failure of the Department to maintain its voicemail communication system. As such, claimant was not at fault for failing to complete the redetermination process, and the Department was incorrect to close claimant's benefit case.

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The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

Implicit failed to satisfy its burden of showing that it acted 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. Reopen claimant's FAP benefits retroactive to the date of negative action.
- 2. Initiate and restart the redetermination scheduled for May, 2014.

ROBERT J. CHAVEZ

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

Date Signed: 7/22/2014

Date Mailed: 7/22/2014

RJC/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

