

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006373
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 12, 2014
County: Oakland-District 2 (Madison Hts)

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 August 14, 2014, from Lansing, Michigan. Participants on behalf of Claimant included her son, [REDACTED]. Claimant did not participate. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimants 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. Claimant was scheduled for a redetermination interview on May 1, 2014.
3. Claimant provided a telephone number where she could be reached for the interview, but the numbers were hand-written and ambiguous with the digit "4" being read as "9".
4. Claimant's son called the Department after waiting with his mother for the phone interview and left a message for the Department, and called the Department on subsequent dates.

5. The Department closed Claimant's FAP on May 31, 2014, for failure to complete the redetermination interview.
6. On July 3, 2014 the Department received Claimant's hearing request.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Redetermination Form (DHS-1040) includes instructions and notices. The Claimant is told that she must complete the form, sign and date it, and return it with proof of changes by a certain date; and she must participate in a telephone interview. It also informs her that if she does not fully comply, her benefits "may be cancelled or reduced."

Claimant's son testified that he was with his mother on the date of the phone interview, but the call never came. He also testified that he wrote the telephone number down. The Department's witness testified that she was unsure what the number was because the digit "4", which appears in the number, looked like a "9". The son stated he had tried calling the Department repeatedly and left messages for the worker; the worker could not recall whether she received such messages or not.

These are difficult cases. Claimant completed and returned a Redetermination that was mailed to her. She provided a telephone number where she could be reached, but the Department misread the number. It comes down to a matter of credibility. Can the Claimant and her son be believed?

Because the Claimant completed and returned the Redetermination timely, and considering the testimony regarding the hand-written phone number in light of Exhibit 1 Page 2, I find that the Claimant made a reasonable effort to comply with the Department's directives.


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.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** with respect to the finding that Claimant's FAP is to be reduced beginning December 1, 2013.

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, effective May 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: **8/13/2014**

Date Mailed: **8/13/2014**

DTJ / jaf

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

cc:

