

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006437
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 4, 2014
County: WAYNE-DISTRICT 76 (GRATIOT/SEVEN M)

ADMINISTRATIVE LAW JUDGE:

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 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's Guardian/Daughter, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager/Hearings Facilitator.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], the Department issued a "Redetermination Telephone Interview" to Claimant with an interview date of [REDACTED].
2. Claimant's guardian waited for the Department worker to telephone her on [REDACTED], but the Department did not call.
3. When the Department did not call, Claimant's guardian attempted to call the Department, but the Department did not return her calls.
4. The Department closed Claimant's FAP case, effective [REDACTED].
5. Claimant requested a hearing on [REDACTED].

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.

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 105. The client should be allowed 10 calendar days to provide the verification. BAM 130. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. *Id.* “Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.” *Id.*

In the present case, on [REDACTED], the Department issued a “Redetermination Telephone Interview” to Claimant with an interview date of [REDACTED]. Claimant’s guardian waited for the Department worker to telephone her on [REDACTED], but the Department worker did not call. When the Department did not call, Claimant’s guardian attempted to call the Department worker, but the Department worker did not return her calls. In the Redetermination form, Claimant was instructed to complete the Redetermination form prior to the interview date. The form states, “To complete the interview, your specialist must have the completed redetermination form.” The form does not state that the worker will not call Claimant for the interview if the form is not completed. Had the Department worker returned Claimant’s calls, the Department could have further clarified and assisted Claimant, per BAM 105 (“The local office must protect client rights.”) It is not found that Claimant refused to cooperate, with the Department as Claimant’s guardian misunderstood the instructions, and was in fact ready for the telephone interview.

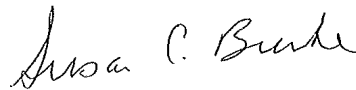
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant’s FAP case.

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. Reinstate Claimant's FAP case, effective [REDACTED], if Claimant is otherwise eligible for FAP.
2. Issue FAP supplements for any missed or increased payment, in accordance with Department policy.



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

Date Signed: **8/13/2014**

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

SCB / hw

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:

