

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-005582
Issue No.: 3002
Case No.: ██████████
Hearing Date: September 18, 2014
County: WAYNE-DISTRICT 18

ADMINISTRATIVE LAW JUDGE: Susan Burke

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, telephone hearing was held on September 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payments Supervisor, and ██████████, Assistance Payments Worker.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's Food Assistance Program (FAP) case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant received FAP benefits.
2. The Department issued a Redetermination Telephone Interview on April 30, 2014 and a Notice of Missed Interview on May 15, 2014, which Claimant did not receive.
3. On June 1, 2014, the Department closed Claimant's FAP case.
4. On June 23, 2014, Claimant requested a hearing, protesting the Department's action.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3001-3015

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.*

In the present case, the Department issued a Redetermination Telephone Interview on April 30, 2014 and a Notice of Missed Interview on May 15, 2014 to Claimant at his correct address. Even though there is a presumption that Claimant received the documents, Claimant rebutted the presumption by his credible testimony that he did not receive the documents.

Claimant was consistent in reporting at the pre-hearing conference and at the hearing that he did not receive the Redetermination form from the Department, even though the address was correct. Claimant testified further that he normally does not have trouble with mail, and that he normally has no problems receiving mail from the Department. Claimant stated that he was unaware of any action that he should take and only learned that his FAP benefits were in jeopardy when he went to purchase food at a store. Claimant's hearing request was also consistent with his testimony, stating that he did not know why his FAP case was closed, as he thought he did all filing required by the Department. It is noted that a Department representative at the hearing testified that the Department reviewed Claimant's address with him at the pre-hearing, and that she advised Claimant to check with the post office, as it was her understanding that sometimes the post office does not deliver Department mail.

Based on the above discussion, it is concluded that Claimant did not refuse to provide information to the Department.

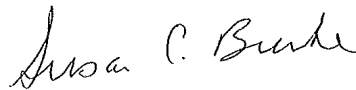
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case.

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 June 1, 2014.
2. Issue FAP supplements, in accordance with Department policy.



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

Date Signed: **9/19/2014**

Date Mailed: **9/19/2014**

SCB / cl

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]