



4. On July 31, 2014, Claimant submitted a completed redetermination. See Exhibit 1, pp. 4-9.
5. On August 4, 2014, Claimant failed to conduct the telephone interview.
6. On August 4, 2014, the Department sent Claimant a Notice of Missed Interview for the FAP benefits and notified Claimant that it was her responsibility to reschedule the interview before August 31, 2014. See Exhibit 1, p. 11.
7. On August 14, 2014, Claimant filed a hearing request, protesting the MA and FAP case closures. See Exhibit 1, pp. 2-3.
8. On August 18, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that her and her husband's MA benefits would close effective September 1, 2014, ongoing, due to the failure to complete the redetermination. See Exhibit 1, pp. 12-14.
9. Effective September 1, 2014, Claimant's FAP benefits also closed due to the failure to complete the redetermination telephone interview.

#### **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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

As a preliminary matter, Claimant submitted her hearing request (August 14, 2014) before the MA determination notice (August 18, 2014) was generated. See Exhibit 1, pp. 3 and 12. Claimant, though, requested her hearing based on the receipt of the Notice of Missed Interview. See Exhibit 1, pp. 2-3. The evidence presented that

Claimant was aware that both the MA and FAP benefits closure was based on the same redetermination submitted. As such, Claimant properly requested a hearing to dispute both closures upon receipt of the Notice of Missed Interview, even though Claimant's MA hearing request is dated before the determination notice. Therefore, this hearing will address whether the Department properly closed Claimant's MA and FAP benefits effective September 1, 2014. See BAM 600 (July 2014), pp. 4-6.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

A complete redetermination is required at least every 12 months. BAM 210 (July 2014), p. 1. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210, p. 2. For MA cases, benefits stop at the end of the benefit period **unless** a renewal is completed **and** a new benefit period is certified. BAM 210, p. 2.

For FAP cases, 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. If the client misses the interview, the Department sends a DHS-254, Notice of Missed Interview. BAM 210, p. 4. For FAP cases, the group loses its right to uninterrupted FAP benefits if it fails to participate in the scheduled interview. BAM 210, p. 17. For MA cases, the Department does not require an in-person interview as a condition of eligibility. BAM 210, p. 4.

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, record the receipt in the Department's system as soon as administratively possible. BAM 210, p. 10.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the eligibility determination group (EDG). BAM 210, p. 11. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 11. For MA cases, benefits are not automatically terminated for failure to record receipt of the renewal packet. BAM 210, p. 11.

In this case, Claimant and her husband were ongoing recipients of FAP and MA benefits. It should be noted that the Department testified that Claimant's children's MA benefits were not closed.

On July 15, 2014, the Department sent Claimant a redetermination (regarding the FAP and MA benefits) and it was due back by August 4, 2014. See Exhibit 1, pp. 4-9. On July 15, 2014, the Department sent Claimant a redetermination telephone interview,

which scheduled Claimant for an interview on August 4, 2014. See Exhibit 1, p. 10. On July 31, 2014, Claimant submitted a completed redetermination. See Exhibit 1, pp. 4-9.

On August 4, 2014, Claimant failed to conduct the telephone interview. The Department testified that it attempted to contact the Claimant twice on August 4, 2014 and August 26, 2014, in order to conduct the telephone interview. However, the Department testified that on each occurrence, it was unable to reach the Claimant via her telephone number. It should be noted that Claimant's phone number was not in dispute.

Claimant's spouse testified that he waited for the telephone interview on August 4, 2014; however, did not receive any contact. Claimant's spouse acknowledged that the telephone does sometimes have network issues and did not argue if the Department had issues in attempting to reach them.

On August 4, 2014, the Department sent Claimant a Notice of Missed Interview for the FAP benefits and notified Claimant that it was her responsibility to reschedule the interview before August 31, 2014. See Exhibit 1, p. 11. Claimant's spouse acknowledged receipt of the Notice of Missed Interview and testified that he attempted to contact the DHS worker on the number provided on the form. Claimant's spouse testified that he left voicemails on two different occasions in August 2014 and received no response from the Department. The Department could not confirm if it received Claimant's spouse's alleged two contacts.

On August 18, 2014, the Department sent Claimant a determination notice notifying Claimant that her and her husband's MA benefits would close effective September 1, 2014, ongoing, due to the failure to complete the redetermination. See Exhibit 1, pp. 12-14. Effective September 1, 2014, Claimant's FAP benefits also closed due to the failure to complete the redetermination telephone interview.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP and MA benefits effective September 1, 2014.

First, the Department testified that Claimant and her husband's MA benefits closed due to her failure to complete the redetermination telephone interview. However, the Department acknowledged during the hearing that it improperly closed the MA benefits because the MA benefits do not require a telephone interview for the redetermination process. BAM 210 states that the Department does **not** require an in-person interview as a condition of eligibility. BAM 210, p. 4. Because Claimant submitted the redetermination before the end of the benefit period and the MA benefits do not require an interview, it improperly closed the MA benefits effective September 1, 2014, in accordance with Department policy. See BAM 210, p. 4. The Department will reinstate Claimant and her husband's MA benefits effective September 1, 2014 and determine their eligibility.

Second, even though Claimant's spouse acknowledged issues with his telephone, Claimant's spouse credibly testified that he attempted to reschedule the telephone interview upon receipt of the Notice of Missed Interview.

Clients must take actions within their ability to obtain verifications. BAM 105, p. 10. DHS staff must assist when necessary. BAM 105, p. 10. The local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105, p. 12. BAM 210 also states local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For FAP cases, the individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210, p. 4. The Department conducts a telephone interview at redetermination before determining ongoing eligibility. BAM 210, p. 4.

Based on the above information, Claimant's spouse credibly testified that he left two voicemails to the Department in order to reschedule the telephone interview; however, he did not receive any contact back. The Department failed to acknowledge if it indeed received any phone calls from the Claimant's spouse. A review of the Notice of Missed Interview does state that it is the Claimant's responsibility to reschedule the telephone interview. See Exhibit 1, p. 11. The evidence established that Claimant's spouse attempted to contact the Department in August 2014 in order to receive assistance/reschedule the telephone interview; however, the Department failed to assist. Because the Department failed to assist/contact the Claimant's spouse for a rescheduled telephone interview, it improperly closed the FAP benefits effective September 1, 2014. BAM 105, p. 10 and BAM 210, pp. 1-4. The Department will reinstate Claimant's FAP benefits and determine eligibility.

### **DECISION AND ORDER**


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 improperly closed Claimant's FAP and MA benefits effective September 1, 2014.

Accordingly, the Department's FAP and MA 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 and MA (Claimant and spouse) case as of September 1, 2014;

2. Begin recalculating the FAP and MA budgets for September 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant/spouse for any FAP and MA benefits they were eligible to receive but did not from September 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP and MA decision in accordance with Department policy.

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

Date Signed: **10/01/2014**

Date Mailed: **10/01/2014**

EJF / 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.

