

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-36116
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: October 9, 2014
County: Eaton

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

**HEARING DECISION
ON REMAND**

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, an in-person hearing was held on October 9, 2014, in Charlotte, Michigan. Participants on behalf of Claimant included Claimant and her mother, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED].

This matter was previously heard on March 20, 2014, (Reg. No. 2014-17916). The Hearing Request was dismissed. Claimant appealed to the Eaton County Circuit Court, and by order dated July 24, 2014, the Eaton County Circuit Court (Judge Janice K. Cunningham presiding) entered an order that the case be remanded for a hearing. Eaton County Circuit File No.14-488-AE. [REDACTED].

ISSUE

Did the Department properly close Claimant's 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. The Department mailed a Redetermination form to Claimant on November 12, 2013, with a due date of December 3, 2013, and a telephone interview scheduled for December 3, 2013, at 9:00 a.m. (Exhibit 1 Pages 5-8.)

3. The Department did not receive the completed form by December 3, so the Department's worker called Claimant and left a message that the interview would have to be rescheduled.
4. The worker made several attempts to contact Claimant to reschedule the interview. Calls were made on December 4, 10, 11, 12, and 16, 2013. The worker's supervisor also called on December 13, 2013. (Exhibit 1 Pages 14-15.)
5. Claimant did not return any of the calls. The only out-going calls (and faxes) Claimant could document were:
 - a. Four faxes sent between 11:07 a.m. and 11:12 a.m. on November 24, 2013. (Exhibit B, page 2.)
 - b. Phone calls and faxes to the worker (Exhibit D):
 - i. 7:33 p.m. on December 2, 2013;
 - ii. 10:16 a.m. on December 3, 2013;
 - iii. 10:58 p.m., 11:02 p.m., 11:05 p.m., 11:08 p.m. on December 4, 2014. (Claimant faxed the completed Redetermination form.)
6. Claimant's FAP was closed because she did not complete the interview.
7. The Department received Claimant's hearing request on January 9, 2014.

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 Department denied Claimant's application because she did not complete the Redetermination interview. She had not returned the completed form prior to the scheduled interview, so her worker called to let her know that, because it wasn't completed and returned, the interview had to be rescheduled.

The Department made several calls to Claimant to reschedule the interview. Claimant did not return any of those calls. She attempted to explain her failure to call. First, she

was busy caring for her mother who was having medical issues. Second, she could not return the calls because the power was out at her house from December 21 through 30, 2013. She provided a list of telephone calls that she made in December, through December 20 (the day before her power went out). It is apparent from Exhibit D that she made telephone calls in the middle of the day on December 5, 6, 7, 9, 10, 11, 13, 15, 16, 19 and 20. As stated above, the Department had called and left messages for her on December 4, 10, 11, 12, 13, and 16. Her phone records show that she made no attempt at all to return any of those calls. She faxed in the completed Redetermination late at night on December 4, and the Department stamped it as received on December 5, 2013.

BAM 210 (10/1/13) was the policy version applicable at the time the Department was redetermining Claimant's case. As stated at page 1 for all programs, "A complete redetermination is required at least every 12 months." It continues, explaining the process for redetermining FAP at page 2: "Benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. If the client does not begin the redetermination process, allow the benefit period to expire. The redetermination process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; DHS-2063B, Food Assistance Benefits Redetermination Filing Record. See; **Subsequent Processing** in this item." (Emphasis in original.) An interview is required.

"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.

"Indicate on the individual interviewed/applicant-details screen in Bridges who was interviewed and how the interview was held, such as by telephone, in person etc." BAM 210 (10/1/13) p 3.

"The individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview.

"Conduct a telephone interview at redetermination before determining ongoing eligibility." Id at 4.

For Claimant to continue receiving FAP, she had to submit the Redetermination form timely.

"In order to receive uninterrupted benefits, (benefits available on his/her scheduled issuance date) the client must file the redetermination through MI Bridges or file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month."

BAM 210 (10/1/13) explains at pages 17-18 the consequences of not completing the redetermination process:

The group loses its right to uninterrupted FAP benefits if it fails to do any of the following: File the FAP redetermination by the timely filing date. Participate in the scheduled interview. Submit verifications timely, provided the requested submittal date is after the timely filing date.

Any of these reasons can cause a delay in processing the redetermination. When the group is at fault for the delay, the redetermination must be completed in 30 days.

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.


The evidence is persuasive that the Redetermination form was mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond or make a reasonable effort to respond by the deadline. Because she had not submitted the completed Redetermination prior to the interview, the Department rescheduled the interview. The Department gave her repeated opportunities to respond to the scheduling requests.

Claimant demonstrated that she had the ability to contact the Department via telephone or fax, either during normal business hours or outside of business hours. Her telephone was working, as evidenced by her telephone records, and she was able to make outgoing calls. She attempted to explain her failure to respond to the Departments calls, indicating she was too busy caring for her mother, and her power was out, making her phone inoperable. Those explanations fail because, as stated previously, she produced evidence that she was able to make many other daytime telephone calls during the period when the Department was calling and leaving her messages. Even if she was too busy during the day, she obviously knew how to send faxes at night and she could have corresponded with the Department by sending them a fax and explaining her inability to call during the day. Regarding the power outage, that occurred after the Department had already made numerous calls to her, and does not excuse her failure to call promptly in response to the Department’s calls.

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 acted in accordance with Department policy when it closed Claimant’s FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.


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

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

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

DJ/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:

