

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

IN THE MATTER OF:



Reg. No.: 14-012466
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: November 20, 2014
County: OAKLAND-DISTRICT 4

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 November 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED]

ISSUE

Did the Department properly close Claimant's Food Assistance Program beginning August 1, 2014?

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 ongoing recipient of Food Assistance Program benefits.
2. On June 16, 2014, Claimant was sent a Redetermination Form (DHS-1010) which was due July 3, 2014.
3. On July 3, 2014, Claimant was sent a Notice of Missed Interview (DHS-254) which stated her Food Assistance Program would close if she did not reschedule the required interview.
4. On July 31, 2014, Claimant's Food Assistance Program closed.
5. On September 15, 2014, Claimant submitted an online application for Food Assistance Program benefits.
6. On September 19, 2014, Claimant submitted a hearing request about her Food Assistance Program closing on July 31, 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.

Claimant asserts she turned in her paperwork on time. Review of the evidence in this record shows that the July 16, 2014, Redetermination (DHS-1010) was mailed to a previous address of Claimant's and referenced a Food Assistance Program authorized representative named [REDACTED]. During this hearing Claimant testified that she has not worked with [REDACTED] since she (Claimant) moved to her current address. When asked Claimant testified that she thinks she moved to her current address in 2010. The DHS case worker during the closure was not present at this hearing. The Department representative who was present testified that Claimant's current address has only been in their records since September 15, 2014. Claimant testified that she has received lots of correspondence from the Department, at her current address, over the last couple of years. No information was provided from Claimant as to when she knew her Food Assistance Program had stopped or why she did not request a hearing until six weeks after the benefits ended.

It is also noted that Claimant testified that she is disabled and receives Social Security Administration disability benefits. When asked, Claimant testified that her disability includes both physical and mental impairments.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

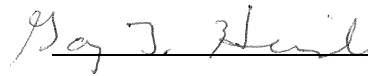
Claimant's testimony that she has been receiving Department correspondence sent to a 4 year old address raises concerns. The US Postal Service will not forward mail for more than 6 months. The Department representative at this hearing opined that Claimant did not report the current address until the September 15, 2014 online application. For Claimant's testimony to be correct, someone at the old address would have to be forwarding or delivering the DHS correspondence to her over the last 4

years. Between Claimant's recited impairments and the unreasonableness of her testimony, her assertions are not found reliable. The peculiarities of this case raise concerns that Claimant is being exploited or perpetrating fraud.

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 acted in accordance with Department policy when it closed Claimant's Food Assistance Program beginning August 1, 2014.

DECISION AND ORDER

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



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

Date Signed: **12/9/2014**

Date Mailed: **12/9/2014**

GFH/hj

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 48909-8139

cc:

