

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-010498
Issue No.: 2003; 3003
Case No.: ██████████
Hearing Date: September 24, 2014
County: WAYNE-DISTRICT 19
(INKSTER)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 September 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; Claimant's ██████████; and Claimant's ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Worker; and ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits effective 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 FAP and MA benefits.
2. On June 16, 2014, the Department sent Claimant a redetermination (regarding FAP and MA benefits) and it was due back by July 1, 2014. See Exhibit 1, pp. 3-8.
3. On June 16, 2014, the Department sent Claimant a redetermination telephone interview, which scheduled a telephone interview on July 1, 2014. See Exhibit 1, p. 2.
4. On June 25, 2014, Claimant contacted the Department.

5. On July 1, 2014, Claimant failed to submit a redetermination, which resulted in no telephone interview being conducted.
6. On July 1, 2014, the Department sent Claimant a Notice of Missed Interview (regarding the FAP benefits) and indicated that it is Claimant's responsibility to reschedule the interview before August 31, 2014. See Exhibit 1, p. 9.
7. Claimant failed to submit a redetermination before the end of the benefit period (July 31, 2014).
8. On July 19, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that the MA benefits closed effective August 1, 2014, ongoing, due to her failure to submit a completed redetermination. See Exhibit 1, pp. 10-12.
9. Effective August 1, 2014, Claimant's FAP benefits closed due to the failure to submit a complete redetermination.
10. On August 12, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 13-14.

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.

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 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 was an ongoing recipient of FAP and MA benefits. On June 16, 2014, the Department sent Claimant a redetermination (regarding FAP and MA benefits) and it was due back by July 1, 2014. See Exhibit 1, pp. 3-8. On June 16, 2014, the Department also sent Claimant a redetermination telephone interview, which scheduled a telephone interview on July 1, 2014. See Exhibit 1, p. 2.

At the hearing, on or around June 20, 2014, Claimant testified that her home suffered severe water damage and all her DHS paperwork was ruined. See Exhibit 1, p. 13. On June 25, 2014, Claimant testified that she contacted the Department indicating a language barrier, a need to reschedule her telephone interview, and a request for a new redetermination. Also, Claimant and her brother/interpreter testified that they left subsequent phone calls/voicemails requesting the same assistance as on June 25, 2014. Claimant and her brother testified that they never received any response back from the Department.

On June 25, 2014 and July 9, 2014, the Department testified that Claimant did leave voicemail messages; however she stated in both messages that she needed to reschedule the interview and a request was not made to resend the redetermination form. See Exhibit 1, p. 1.

On July 1, 2014, Claimant failed to submit a redetermination, which resulted in no telephone interview being conducted. The Department testified that the redetermination

form states that the specialist must have the completed redetermination form in order to complete the telephone interview. See Exhibit 1, p. 1 and 3. Thus, the Department testified that since the Department did not receive the completed redetermination form, there was not a need to return Claimant's call to reschedule the telephone interview. See Exhibit 1, p. 1.

On July 1, 2014, the Department sent Claimant a Notice of Missed Interview (regarding the FAP benefits) and indicated that it is Claimant's responsibility to reschedule the interview before August 31, 2014. See Exhibit 1, p. 9. It is unclear why the interview had to be scheduled before August 31, 2014, if the benefit period ended July 31, 2014.

Nevertheless, Claimant failed to submit a redetermination before the end of the benefit period (July 31, 2014). On July 19, 2014, the Department sent Claimant a determination notice notifying Claimant that the MA benefits closed effective August 1, 2014, ongoing, due to her failure to submit a completed redetermination. See Exhibit 1, pp. 10-12. Effective August 1, 2014, Claimant's FAP benefits closed due to the failure to submit a complete redetermination (DHS-1605 not generated per policy). See BAM 210, p. 11. On August 12, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 13-14. It should be noted that Claimant testified she submitted a redetermination at the local office on or around August 12, 2014. The Department acknowledged a redetermination was submitted in August 2014; however, it was after the benefit period had ended.

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. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. 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.

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

Claimant credibly testified that her home suffered severe water damage on or around June 20, 2014. Moreover, Claimant and her brother/interpreter provided credible testimony that they contacted the Department multiple times requesting assistance with the redetermination; however, received no response. The Department acknowledged contact by the Claimant on two different occasions, but alleged that Claimant did not request a new redetermination or any indication of a language barrier.

Based on above information, the Department failed to assist the Claimant when she requested help with the redetermination in accordance with Department policy. The evidence presented that Claimant was not fluent in English. Moreover, Claimant had an additional witness, Claimant's brother/interpreter, who also supported her assertion that they attempted to contact the Department to request assistance. The evidence

presented that Claimant and/her brother contacted the Department to request assistance on June 25, 2014 and July 9, 2014, which occurred before the end of the benefit period. Because Claimant requested assistance before the benefit period had ended and the Department failed to assist the Claimant, it improperly closed her FAP and MA benefits effective August 1, 2014. See BAM 105, pp. 10 and 12 and BAM 210, p. 1.


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 August 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 cases as of August 1, 2014;
2. Begin recalculating the FAP and MA budgets for August 1, 2014, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP and MA benefits she was eligible to receive but did not from August 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP and MA decisions 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.

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]