

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 14-016208
Issue No.: 3003
Case No.: ██████████
Hearing Date: December 15, 2014
County: WAYNE-DISTRICT 17
(GREENFIELD/JOY)

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 December 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, ██████████, Family Case Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) 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 benefits.
2. On June 16, 2014, the Department sent Claimant a redetermination (DHS-1010) and it was due back by July 7, 2014. See Exhibit 1, p. 5. The redetermination also notified Claimant that he was scheduled for a telephone appointment on July 7, 2014. See Exhibit 1, p. 5.
3. On July 7, 2014, the Department sent Claimant a Notice of Missed Interview (DHS-254), which indicated Claimant missed his scheduled interview to redetermine FAP benefits. See Exhibit 1, p. 4. The notice also informed Claimant that it is his responsibility to reschedule the interview before July 31, 2014 or his redetermination will be denied. See Exhibit 1, p. 4.

4. On July 7, 2014, Claimant submitted a redetermination; however, he failed to sign and date the redetermination. See Exhibit 1, pp. 5-10. Claimant also included verification of his employment income. See Exhibit 1, p. 11.
5. On July 18, 2014, the Department sent Claimant a Quick Note notifying Claimant that he must mail in a completed redetermination by July 31, 2014, to avoid case closure. See Exhibit 1, p. 12. The Quick Note also notified Claimant that he must mail in current verification of all income received. See Exhibit 1, p. 12.
6. On July 29, 2014, Claimant submitted a completed redetermination with income verifications. See Exhibit 1, pp. 13-20.
7. Effective August 1, 2014, ongoing, Claimant's FAP benefits closed for failure to submit a redetermination.
8. On November 7, 2014, Claimant filed a hearing request, protesting his FAP case closure. See Exhibit 1, pp. 2-3.

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.

Preliminary matter

It was discovered that Claimant did not file a hearing request within ninety days of the case closure. BAM 600 states the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (July and October of 2014), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

A review of Claimant's hearing request determined that he is disputing the Department's failure to process his submitted redetermination. Claimant's hearing request argued that he submitted his redetermination and that he did not receive a denial letter. See Exhibit 1, p. 3. The evidence indicated that Claimant did not receive any denial notice because his benefits closed based on a failure to submit a redetermination. See BAM 210 (July 2014), p. 11 (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). A Notice of Case Action (DHS-1605) is not generated). Thus, if Claimant did not submit a redetermination, he would never receive a denial notice. See BAM 210, p. 11.

Based on the foregoing information, it is found that the Claimant filed a timely hearing request. Claimant's argument is based on a failure to process his redetermination. Department policy does not impose a ninety day time limit when disputing a failure to process. See BAM 600, pp. 4-6. In fact, the Michigan Administrative Hearing System (MAHS) may grant a hearing when there is a delay of any action beyond standards of promptness. See BAM 600, p. 4; see also BAM 110 (July 2014), p. 3 (the DHS-1171, Assistance Application, is used for most applications and may also be used for redeterminations). For the above stated reasons, Claimant's hearing request is found to be timely based on a failure to process argument.

FAP redetermination

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, 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. 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. 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. If the client misses the interview, the Department sends a DHS-254, Notice of Missed Interview. 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. If the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the EDG. BAM 210, p. 11. A Notice of Case Action (DHS-1605) is not generated. BAM 210, p. 11. BAM 210 further states how the Department completes the redetermination process. BAM 210, pp. 15-16.

In the present case, on July 7, 2014, Claimant submitted a redetermination; however, he failed to sign and date the redetermination. See Exhibit 1, pp. 5-10. Claimant also included verification of his employment income. See Exhibit 1, p. 11. At this point, Claimant failed to submit a completed redetermination because he did not sign it. See BAM 210, p. 10 (emphasis added) (A redetermination/review packet is considered complete when all of the sections of the redetermination form including the *signature section are completed*). It should be noted that both parties appeared to indicate that they attempted to contact one another on the day of the telephone interview (July 7, 2014); however, both were unsuccessful in reaching one another.

Nevertheless, the evidence presented that Claimant submitted his redetermination with verification of his income on July 29, 2014. See Exhibit 1, pp. 13-20. Claimant properly replied to the Department's Quick Note requesting him to submit his redetermination with income verifications before July 31, 2014. See Exhibit 1, p. 12. As such, the Department improperly closed Claimant's FAP benefits effective August 1, 2014. Because Claimant submitted the redetermination packet before the end of the benefit period (July 31, 2014), the Department improperly closed his FAP benefits effective August 1, 2014, in accordance with Department policy. BAM 105, p. 6; BAM 210, pp. 1-4, 10-11, and 15-16; and Exhibit 1, pp. 13-20.


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 benefits effective August 1, 2014.

Accordingly, the Department's FAP 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 as of August 1, 2014;
2. Begin recalculating the FAP budget for August 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from August 1, 2014, ongoing; and
4. Notify Claimant of its FAP decision in accordance with Department policy.


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

Date Signed: **12/17/2014**
Date Mailed: **12/17/2014**
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 48909-8139

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