

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004335
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: April 30, 2015
County: OAKLAND-DISTRICT 4 (NORTH)

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 30, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly take action to close the Claimant's Food Assistance Program (FAP) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of monthly FAP benefits.
2. On January 13, 2015, the Claimant was mailed a DHS-574, Redetermination Telephone Interview as well as a DHS-1010, Redetermination form. The DHS-1010, Redetermination form was due February 2, 2015 and the telephone interview was scheduled for the same day at 3:30 PM. The Department testified that it had never received the completed DHS-1010, Redetermination form and as such, the Department's Eligibility Specialist never did telephone the Claimant.
3. On February 2, 2015, the Claimant was mailed a DHS-254, Notice of Interview. This notice informed the Claimant that it was now her responsibility to reschedule the interview before February 28, 2015, or her redetermination could be denied.

4. On February 17, 2015, the Claimant, at the local DHS office, submitted a written letter to the Department attempting to reschedule her interview.
5. There is no DHS-1605, Notice of Case Action in evidence. The evidence suggests that sometime after February 28, 2015, the Claimant's FAP case closed.
6. On March 12, 2015, the Department received the Claimant's written hearing request protesting the closure of her FAP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Claimant testified that she did not receive the DHS-1010, Redetermination form nor did she receive the DHS-574, Redetermination Telephone Interview notice. The Claimant testified that the only documents she received from the Department was the DHS-254, Notice of Missed Interview. The Claimant testified she did as that notice instructed and attempted to reschedule the interview by arriving at the local office on February 17, 2015 and submitting a letter requesting such to the Department. The Eligibility Specialist present at the hearing testified that she had never received such a letter from the Claimant and it therefore never did telephone the Claimant to reschedule the interview.

The Claimant was very specific in her testimony that she arrived at the local office on February 17, 2015 and indicated that she did sign the mail drop off log there. After the hearing, the Department's Eligibility Specialist faxed the Mail drop off log to the Michigan Administrative Hearing System. That log is marked as Claimant's Exhibit 1 and is supportive of the Claimant's testimony. It is not contested that the Department did not contact the Claimant after that.

Bridges Administrative Manual (BAM) 210 (2014) pp. 3, 4, provides that an interview is required before denying a redetermination for FAP. This interview can be conducted by telephone. The Department did never telephone the Claimant for an interview and when the Claimant responded to the DHS-254, Notice of Missed Interview, with a written

request to be contacted, the Department did not contact the Claimant but rather closed her case.

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 took action to close the Claimant's FAP case for failure to complete the Redetermination.

DECISION AND ORDER

Accordingly, the Department's 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. Redetermination Claimant eligibility for FAP back to the date that her case actually closed, and
2. Issue the Claimant any supplement she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/4/2015**

Date Mailed: **5/4/2015**

SEH/sw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

