

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-011000
Issue No.: 1000, 5000, 3002
Case No.: [REDACTED]
Hearing Date: August 17, 2015
County: WAYNE-DISTRICT 31

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], FIS, and [REDACTED], FIM.

ISSUE

Did the Claimant timely request a hearing regarding the Department's actions with respect to her State Emergency Relief (SER) case and FIP cash assistance case?

Did the Department properly close the Claimant's Food Assistance (FAP) for failure to complete the redetermination?

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 FAP recipient. The Department sent the Claimant a redetermination on [REDACTED], with a due date of [REDACTED]. The Department also sent the Claimant a Notice of Missed Interview on [REDACTED]. The redetermination was never completed. The redetermination was sent to the correct address on file with the Department. Exhibits 1 and 2
2. The Claimant requested a hearing on an SER issue based upon a [REDACTED] Decision by the Department, and also requested a hearing on her FIP cash assistance based upon a decision by the Department on [REDACTED]. The request for hearing for both of these matters was made [REDACTED]. The

hearing request for these two issues was not requested within 90 days of the Department's decision and notice date.

3. The Claimant requested a hearing on [REDACTED], protesting the closure of her FAP case and Department actions regarding her SER application and FIP benefits.

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.

Timeliness of SER and FIP Hearing Requests

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides that “[a]n opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness [or] has received notice of a suspension or reduction in benefits.” However, Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (April 2015), p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, the Department sent Claimant a Notice of Case Action on [REDACTED], for an SER decision by the Department and a decision by the Department on [REDACTED] regarding her FIP benefits. The Claimant requested a hearing on both these matters on [REDACTED]. Both these requests for hearing were untimely as they were not filed within 90 days of the Notices. Thus, it is determined that Claimant's hearing request was not timely filed within ninety days of the Notices of Case Action must be dismissed for lack of jurisdiction.

Redetermination and FAP Closure

In, this case the redetermination was not completed by the Claimant and the Department closed her FAP case [REDACTED]. The Claimant did not receive the redetermination as she had moved and had not given the Department her change of address as required by Department policy. The redetermination was sent to the Claimant at the address she had last provided the Department. The Claimant did not provide change of address until [REDACTED]. Changes including income must be reported within 10 days to the Department; changes of address also must be reported BAM 105 requires:

Other changes must be reported within 10 days after the client is aware of them. These include, but are **not** limited to, changes in:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Child care needs or providers. BAM 105, (July 1, 2015) p.11.
- FAP Only
- Verifications must be provided by the end of the current benefit period **or** within 10 days after they are requested, whichever allows more time. If the tenth day falls on a weekend or holiday, the verification will not be due until the next business day. BAM 105 (July 1, 2015) p. 12

Department policy governing redeterminations is found in BEM 210 and provides:

Delays (FAP)

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 within 30 days of the compliance date. . BEM 210 (July 1, 2015) p. 18

In this case, because the redetermination was never returned through no fault of the Department (due to the Claimant's failure to provide a current address), the Department correctly closed the Claimant's FAP case. The Claimant may reapply for FAP benefits at any time.

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 the Claimant's FAP case for failure to complete the redetermination.

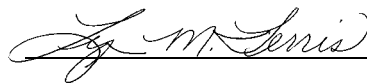
DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

It is determined that Claimant's hearing requests dated [REDACTED], and February 10, 2015, were not timely filed within ninety days of the Notices of Case Action and are, therefore, **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/18/2015**

Date Mailed: **8/18/2015**

LMF / hw

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:

