

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 15-014508
Issue No.: 3003
Case No.: ██████████
Hearing Date: September 30, 2015
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 30, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, specialist.

ISSUE

The issue is whether MDHHS properly terminated Claimant's Food Assistance Program (FAP) eligibility due to Claimant's failure to return redetermination documents.

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 FAP benefit recipient with a benefit period through May 2015.
2. On April 30, 2015, MDHHS mailed Claimant a Redetermination (Exhibits 1-6) notifying Claimant of a telephone interview date of May 15, 2015.
3. Claimant failed to return the Redetermination (or any other documentation) to MDHHS.
4. On May 15, 2015, MDHHS mailed Claimant a Notice of Missed Interview (Exhibit 7).
5. Claimant's FAP eligibility expired at the end of May 2015.

6. On August 11, 2015, Claimant verbally requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a termination of FAP benefits, effective June 2015. It was not disputed that MDHHS terminated Claimant's FAP eligibility due to a Claimant failure to comply with FAP benefit redetermination procedures.

The Department of Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2015), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.* A complete redetermination is required at least every 12 months. *Id.* Bridges sets the redetermination date according to benefit periods. *Id.*

The redetermination process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. *Id.*, p. 2. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.* If the client does not begin the redetermination process, MDHHS is to allow the benefit period to expire.

MDHHS presented a Redetermination (Exhibits 1-6) dated April 30, 2015. The presented Redetermination listed Claimant's proper mailing address. The evidence was persuasive evidence that MDHHS mailed a Redetermination to Claimant.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

It was not disputed that Claimant did not return the Redetermination to MDHHS. Claimant testified that she did not receive the Redetermination. Claimant presented no supporting evidence for her testimony. Claimant's testimony was also muddled by some inconsistencies. For example, Claimant testified she did not receive any documents from her specialist but also testified that she received a Notice of Missed Interview form. Claimant testimony that she received the Notice of Missed Interview form contradicted a statement she made to the testifying specialist before the hearing (per MDHHS

specialist testimony). Claimant's testimony was also less persuasive because Claimant testified she knew of an interview date and time, yet Claimant denied receiving the document with that information (Claimant testified someone other than her specialist advised her of the interview date and time). Based on the presented evidence, it is found that Claimant received the Redetermination.

Claimant testified that she contacted MDHHS after receiving a Notice of Missed Interview. Claimant testimony suggested she called before her benefits expired though MDHHS alleged Claimant's first call to MDHHS occurred after her benefits expired. Claimant further testified that her specialist was unresponsive to her calls. Claimant's testimony was somewhat consistent with an MDHHS concession that Claimant's specialist was on a leave of absence (as of the date of hearing) and an unrefuted allegation that she had been on a leave in the past. Even if Claimant's testimony is accurate, the testimony does not persuasively excuse Claimant's failure to return required redetermination documents to MDHHS. It is found that MDHHS properly terminated Claimant's FAP eligibility due to Claimant's failure to return a Redetermination.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Claimant's FAP benefit eligibility, effective June 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **10/1/2015**

Date Mailed: **10/1/2015**

CG/tm

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]