

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-004833
Issue No.: 3003
Case No.: ██████████
Hearing Date: April 30, 2015
County: WAYNE-DISTRICT 35
(REDFORD)

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 April 30, 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 ██████████ Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant's Food Assistance (FAP) case 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 Department issued a Redetermination Notice June 16, 2014 and Telephone interview for July 8, 2014. Exhibit A
2. A Notice of Missed Interview was sent to the Claimant at the correct address on July 8, 2014 advising the Claimant to reschedule the missed interview before July 31, 2014 Exhibit C
3. After the Redetermination was not received the Claimant's FAP benefits closed for failure to complete the redetermination.
4. The Claimant requested a hearing on March 23, 2015.

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 did not file his Hearing request regarding the closure of his FAP benefits until March 23, 2015 requesting a hearing regarding the closure of his food assistance benefits on or about July 31, 2014 for failure to complete the redetermination. At the hearing the Claimant testified that he appeared at the DHS office on July 25, 2014 and attempted to see his case worker but had to leave for an MRI appointment. He did not call his caseworker after receiving the Notice of Missed Interview. He left the DHS office on July 25, 2014 without telling the intake clerk he was leaving, nor did he leave any written request to reschedule his redetermination interview. The Claimant did not reschedule his FAP interview redetermination which is what he was required to do. The Department never received the redetermination. The Claimant could not remember whether he signed a sign-in book when dropping off the redetermination. The Claimant had extensive dental work in July 2014 but returned to work on July 21, 2014.

Thereafter, the Claimant did contact the Department about his food stamp case closure. The Claimant returned to the DHS offices on August 22, 2014 because he knew his FAP benefits had closed but did not file a hearing request at that time. The Claimant waited approximately 30 minutes on August 22, 2014 and left. Thereafter the Claimant sent the Department a letter on August 25, 2014 advising he would no longer accept phone calls from the Department. Claimant filed his hearing request dated received March 23, 2015 almost 8 months after the FAP case closure. Clearly the Claimant was aware that he had no FAP benefits after August 22, 2014 but did not request a hearing at that time.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2015), p. 6 provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

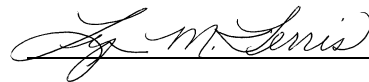
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that the Claimant did not file his hearing request within the 90-day period provided by the Department policy. The Department's FAP closure occurred July 31, 2014. However, Claimant did not file a request for hearing to contest the Department's action until March 23, 2015. The Claimant may reapply for FAP benefits at any time.

Claimant's hearing request was not timely filed within 90 days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **5/8/2015**

Date Mailed: **5/8/2015**

LMF / 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 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]