

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007929
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 30, 2015
County: OAKLAND-DISTRICT 2

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 June 30, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant, [REDACTED] and his friends [REDACTED] and [REDACTED] who assisted the Claimant with a speech difficulty during the hearing. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist, [REDACTED] and Assistance Payments Supervisor, [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 in the amount of [REDACTED].
2. On February 10, 2015, the Department sent the Claimant a DHS-1010, Redetermination.
3. The Department received everything but page 6 of the completed redetermination form, which is the signature page.
4. On March 2, 2015, the Department sent the Claimant a DHS-254, Notice of Missed Interview. This notice informed the Claimant that it was his responsibility to

reschedule the interview before March 31, 2015 or his redetermination would be denied.

5. The Claimant and his friends waited for the telephone interview on March 2, 2015 and the Department did not telephone him. This testimony was not contested during the hearing.
6. The Claimant and his friends telephoned the Department several times between March 2, 2015 and April 1, 2015.
7. On March 31, 2015 the Claimant's FAP case closed.
8. On May 13, 2015, the Department received the Claimant's written hearing request protesting the closure of his 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 and his friends testified that they telephoned the Department several times in an effort to prevent closure of the Claimant FAP case. The testimony of the Claimant and his friends was logical, reasonable and consistent in detail. The contrary testimony of the Department's Eligibility Specialist was slow, reluctant and not made until just before the record closed. It is therefore found to be less than credible and the Claimant's testimony that he and his friends called the Department several times is found to be persuasive.

Bridges Assistance Manual (BAM) 130 (2014) p. 5 provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Claimant indicates a refusal to provide a verification, or when the time period given has elapsed and the Claimant has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the time period to submit the verification had lapsed. However, the Claimant had made several reasonable efforts to contact the Department to determine what the problem was and to reschedule his telephone interview. It is not contested that

the Claimant returned all but one page of the redetermination. This Administrative Law Judge has concluded that the Claimant did make those telephone calls and the Department did not return any of these telephone calls. The Department worker is required to assist the Claimant in obtaining verification if the Claimant needs and requests assistance. Indeed, departmental policy provides that the Department's worker is to be especially sensitive to the needs of Claimants with disabilities. The Claimant cannot articulate that he needs and requests help if his phone calls are never returned.

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.

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. Redetermine the Claimant eligibility for FAP back to March 31, 2015, and
2. Issue the Claimant any supplement he may thereafter be due.



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

Date Signed: **7/1/2015**

Date Mailed: **7/1/2015**

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:

