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

IN THE MATTER OF:

Reg. No.:	15-010187
Issue No.:	3001
Case No.:	
Hearing Date:	August 26, 2015
County:	Wayne (15)

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, an in-person hearing was held on August 26, 2015, from Detroit, Michigan. Participants included the above-named Claimant. of appeared as Claimant's authorized hearing representative (AHR). 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 submit a 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. Claimant was an ongoing FAP benefit recipient.

2. Claimant's FAP eligibility was scheduled to expire beginning June 2015.

3. On an unspecified date in April 2015, MDHHS mailed Claimant a Redetermination.

4. On unspecified dates in May 2015, Claimant called MDHHS in an attempt to obtain a new Redetermination form.

5. MDHHS did not respond to Claimant's request for a new Redetermination.

6. Beginning June 1, 2015, Claimant's FAP eligibility expired due to Claimant's failure to submit redetermination documents.

7. On June 12, 2015, Claimant requested a hearing to dispute the termination of FAP benefits and unspecified actions concerning Medical Assistance (MA) and Family Independence program (FIP) benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant's hearing request stated that FIP and MA eligibility were in dispute. Claimant's hearing request narrative stated information related only to a termination of FAP eligibility. It was not disputed that Claimant's MA and FIP eligibility stopped at the end of June 2015. MDHHS did not present written notice verifying the reason for closures. MDHHS testified that the closures occurred because of returned mail sent to Claimant.

Claimant's hearing request was signed on June 10, 2015 and submitted to MDHHS on June 12, 2015. As of June 12, 2015, there was no known threatened action to Claimant's FIP or MA eligibility. Testimonial evidence from Claimant and MDHHS indicated that written notice of closure was sent to Claimant after she requested a hearing, though an exact date was not verified.

As of the date of Claimant's hearing request, Claimant's dispute concerning FIP and MA eligibility appeared to be an expectation but not a reality. Though Claimant's expectation later became a reality, at the time of Claimant's hearing request, neither her FIP nor MA eligibility were in jeopardy.

Claimant's hearing request concerning FIP and MA eligibility is appropriately dismissed because there was not a negative action as of the date that Claimant requested a hearing. As stated during the hearing, Claimant can now request a hearing to dispute FIP and MA eligibility because a threat to Claimant's eligibility has occurred.

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 the termination of FAP eligibility, effective June 2015. MDHHS presented no documentation to verify the reason for the termination. It was not disputed that the termination was due to Claimant's failure to timely submit a Redetermination.

[MDHHS] must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (4/2015), p. 1.The redetermination process includes thorough review of all eligibility factors. *Id*. A complete redetermination is required at least every 12 months. *Id.* For all programs, Bridges generates a redetermination packet to the client three days prior to the negative action cutoff date in the month before the redetermination is due. *Id*., p. 6.

FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.,* p. 2. If the client does not begin the redetermination process, allow the benefit period to expire. *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.

It was not disputed that MDHHS properly sent Claimant a Redetermination. Claimant conceded that she did not return the Redetermination because she lost it. Claimant excused her failure by testifying that she called MDHHS in the middle of May 2015 (approximately one week before her scheduled telephone interview) requesting a new Redetermination. Claimant testified that she left messages for her specialist and his supervisor but did not receive a return call. Claimant's testimony was not verified though it was credible.

The testifying specialist stated he recalled a conversation with Claimant about an address change but not about a lost Redetermination. Claimant's specialist also testified that it was possible Claimant left him voicemail messages requesting a new Redetermination.

Based on presented evidence, it is found that Claimant requested a Redetermination from MDHHS. It is further found that MDHHS failed to respond to Claimant's request.

The client must obtain required verification, but the local office must assist if they need and request help. BAM 130 (October 2014), p. 3. This policy primarily applies for the purpose of assisting clients when they have difficulty obtaining written documentation from third parties (e.g. employers, landlords, government agencies…). A reasonable interpretation would justify application to the circumstances of the present case.

It is found that MDHHS failed to assist Claimant's timely request for the mailing of a Redetermination. The failure directly related to the termination of Claimant's FAP eligibility. Thus, Claimant is entitled to an administrative remedy.

It is appropriate that MDHHS resend Claimant a Redetermination. MDHHS shall give Claimant at least 10 days for the completion and return of the Redetermination. The timeframe was chosen because that is approximately how long Claimant had to return her Redetermination in May 2015 if MDHHS mailed her a new Redetermination. Claimant shall also be expected to comply with FAP verification and interview requirements. If Claimant does not comply with all redetermination requirements, MDHHS is under no obligation to process Claimant's FAP redetermination documents.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that no adverse action was taken to Claimant's FIP and MA eligibility as of the date of Claimant's hearing request. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Claimant's FAP eligibility. It is ordered that MDHHS resend Claimant a FAP Redetermination giving Claimant at least 10 days for its completion and return. The actions taken by MDHHS are **REVERSED**.

Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/31/2015**
Date Mailed: **9/01/2015**
GC/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]