

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 15-013739
Issue No.: 3003
Case No.: ██████████
Hearing Date: September 17, 2015
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 September 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████ ██████████, Claimant's sister-in-law and translator (Arabic/English). Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Manager, and ██████████, Eligibility Specialist.

ISSUE

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

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 recipient of FAP benefits.
2. On May 12, 2015, the Department sent Claimant a redetermination packet that advised her that the completed redetermination was due to the Department by June 3, 2015 and that scheduled a phone interview on June 3, 2015 (Exhibits A and B).
3. Claimant did not return the redetermination packet by June 3, 2015.

4. On June 3, 2015, the Department sent Claimant a Notice of Missed Interview notifying her that she was required to reschedule the interview before June 30, 2015 or her redetermination would be denied (Exhibit C).
5. Claimant attempted to contact her worker but messages were not returned.
6. On June 30, 2015, Claimant's FAP certification period expired.
7. On July 28, 2015, Claimant filed a request for hearing.

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.

The Department closed Claimant's FAP case because she did not complete the redetermination process. A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210 (July 2015), p. 1. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p 2. A client's FAP redetermination includes a telephone interview with the Department. BAM 210, p 3. If the client does not begin the redetermination process by filing the redetermination form, the benefit period expires. BAM 210, p. 2.

In this case, Claimant admitted that she did not complete the redetermination form sent to her on May 12, 2015, explaining that she did not receive the form. However, she did receive the Notice of Missed Interview sent to her on June 3, 2015 (Exhibit C). This Notice advised Claimant as follows:

You recently missed your scheduled interview to apply for/redetermine Food Assistance benefits. It is now your responsibility to reschedule the interview before 06/30/2015 or your application/redetermination will be denied. To schedule your interview, please contact your specialist at [contact information].

In response to this Notice, Claimant, who does not speak English, had her sister-in-law call her worker. Claimant's sister-in-law credibly testified that she called the worker at the number indicated on the Notice seven or eight times during the month of June 2015 and left voicemail messages but received no response. The worker was not at the hearing to rebut this testimony.

Although Department policy provides that the redetermination process begins only after the redetermination form is completed and returned, the Notice of Missed Interview in this case advised Claimant she had missed her interview and her case would close if she did not reschedule the interview. The Department must explain a client's responsibilities in understandable terms. BAM 105 (July 2015), p. 13. It must assist clients who ask for help in completing forms or gathering verifications, paying particular sensitivity to clients who are not fluent in English. BAM 105, p. 14. By failing to respond to Claimant's calls and advise her that she was required to submit a completed redetermination before she could reschedule her interview, particularly in light of the language barrier, the Department did not act in accordance with Department policy.

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 closed 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. Reinstate Claimant's FAP case effective July 1, 2015 and reprocess the redetermination;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive from July 1, 2015 ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/25/2015**

Date Mailed: **9/25/2015**

ACE / tlf

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]
[REDACTED]