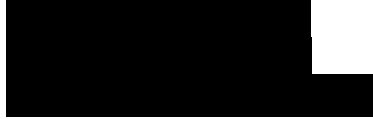


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-018254/
15-019465
Issue No.: 3003
Agency Case No.: [REDACTED]
Hearing Date: January 14, 2016
County: Roscommon

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

PROCEDURAL HISTORY

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, an in-person hearing was held on January 14, 2016, in Roscommon, Michigan. Claimant personally appeared and testified. The Department of Health and Human Services (Department) was represented by Assistance Payment Supervisor [REDACTED] [REDACTED] who also testified as a witness. Director [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED] [REDACTED] also personally appeared and testified as witnesses.

As an initial matter, Registration numbers and hearings 15-018254 and 15-019465, based on separate hearing requests, have been consolidated for purposes of hearing as they both apply to the same Food Assistance Program (FAP) redetermination.

The Department offered the following exhibits that were admitted into the record as evidence:

1. Department's Exhibit A, pages 1-83 in MAHS Registration No. 15-018254 contains the Hearing Summary, Redetermination, Redetermination Telephone Interview, Claimant emails, Department emails, Appointment Notices, a Quick Note, a Notice of Missed Interview, a Hearing Request, a Notice of Case Action and Department policy, BAM 220, p 5 and BAM 210, p 2.
2. Department's Exhibit A, pages 1-43 in MAHS Registration No. 15-019465 contains the Notice of Case Action, Redetermination, Redetermination Telephone Interview, Department policy, Case Comments, Claimant emails, Department emails, Appointment Notices, a Quick Note, Notice of

Missed Interview, Notice of Case Action, Hearing Request and Hearing Summary.

The Claimant offered the following exhibits that were admitted into the record as evidence:

1. Claimant's Exhibit No. 1 is Claimant's Motion/Addendum Adding Five Exhibits to Pending Motion to Disqualify ALJ [REDACTED] Pending Motion Adding Exhibits Aj, Ak, Al and [REDACTED] In-Person Hearing Exhibits Index with attached Exhibits A-Ai for MAHS Reg No.: 15-018254 and 15-019465 Date Jan. 2, 2016. (Dated 1/11/2016).
2. Claimant's Exhibit No. 2 is a Motion Adding Exhibits Aj, Ak, and Al. (Dated 1/8/2016).
3. Claimant's Exhibit No. 3 is a Motion Moving [REDACTED] Motions to Disqualify ALJ Vicki Armstrong and [REDACTED] be ruled upon by challenged ALJ and ALJM, Remove Adjournment Ruling, [REDACTED] be Removed as Supervising ALJ, and add Four Exhibits. (Dated 1/12/2016).
4. Claimant's Exhibit No. 4 is a Motion for Summary Disposition. (Dated 1/2/2016).
5. Claimant's Exhibit No. 5 is [REDACTED] In-Person Hearing Exhibits Index with attached Exhibits A-Ai for MAHS Reg No.: 15-018254 and 15-019465. (Dated 1/2/2016).

The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly close Claimant's Food Assistance Program benefits for failure to complete the required FAP interview within 30 days?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all times pertinent to this case, Claimant was receiving FAP benefits from October 1, 2014 through September 30, 2015. (Dept Ex. A, p 43, MAHS Reg. 15-019465).
2. On August 17, 2015, the Department mailed Claimant a notice of Redetermination Telephone Interview scheduled for September 10, 2015 at 2PM. The notice informed Claimant he must have turned in his completed redetermination form and

copies of all required proofs to the Department before the telephone interview. The notice explained that failure to return the completed redetermination form, required proofs, and participate in an interview might result in his benefits being reduced or cancelled. The notice also instructed Claimant to call no later than the day before the interview date if he wanted an in-person interview, and if Claimant did want an in-person interview, to come into the DHHS office on September 10, 2015 at 2PM. (Dept Ex. A, pp 1-9, MAHS Reg. 15-018254).

3. On August 24, 2015, the Department received Claimant's completed redetermination paperwork and a request to reschedule the September 10, 2015 telephone interview. (Dept Ex. A, pp 10-14, MAHS Reg. 15-018254).
4. On September 3, 2015 at 7:33AM, Eligibility Specialist [REDACTED] emailed Claimant acknowledging the receipt of his redetermination paperwork and offering Claimant a rescheduled FAP redetermination interview for either September 4, 2015 at 9AM or September 9, 2015 at 9AM, and asked Claimant to let her know which date and time he preferred. (Dept Ex. A, p 16, MAHS Reg. 15-018254).
5. On September 3, 2015, Claimant emailed Eligibility Specialist Nees indicating he had called her earlier on September 3, 2015 and the call had been lost. Referring to the conversation before the call was lost, the Claimant stated he had not received an email from Eligibility Specialist [REDACTED] on September 3, 2015, and asked that she resend it to him. (Dept Ex. A, pp 18-19, MAHS Reg. 15-018254).
6. On September 4, 2015 at 10:44AM, Eligibility Specialist [REDACTED] emailed Claimant attaching her original September 3, 2015 email offering him alternative FAP redetermination dates as Claimant requested. (Dept Ex. A, p 21, MAHS Reg. 15-018254).
7. On September 4, 2015, Claimant emailed Eligibility Specialist [REDACTED] thanking her for forwarding the original September 3, 2015 email with the new dates and stated his Yahoo email account never received her original email. (Dept Ex. A, p 23, MAHS Reg. 15-018254).
8. On September 6, 2015, Claimant emailed Eligibility Specialist [REDACTED] requesting an in-person FAP redetermination interview at the Roscommon library because of his hardships including health concerns and the need to be available to provide transportation at a moment's notice to a doctor or a hospital pending local DHS misconduct complaint, pending food stamp complaint involving where his redetermination paperwork was and is to be filed and/or the local DHS losing his previous redetermination paperwork. (Dept Ex. A, pp 24-25, MAHS Reg. 15-018254).
9. On September 8, 2015 at 3:10PM, Claimant emailed Eligibility Specialist [REDACTED] informing her that he had reserved a room at the Roscommon library between 1:30PM and 3PM on September 10, 2015 for the FAP redetermination in-person hearing.

10. On September 8, 2015 at 6:45PM, Claimant again emailed Eligibility Specialist [REDACTED] that he had not heard from her regarding the proposed in-person interview at the Roscommon library and asked that she respond by the end of business on September 9, 2015, for a new date and time of the interview to be held at [REDACTED] [REDACTED] (Dept Ex. A, p 27, MAHS Reg. 15-018254).
11. On September 9, 2015 at 5:49PM, Claimant emailed Eligibility Specialist [REDACTED] informing her that since he had not heard from her, he had cancelled the room at the Roscommon library for the September 10, 2015 FAP redetermination interview. He stated that due to a friend's heart problems, he was unable to drive the half hour to the Roscommon DHHS office for the interview. Claimant suggested the interview be scheduled at the [REDACTED] [REDACTED] [REDACTED] library or [REDACTED] [REDACTED] near his residence because he had to be available at a moment's [REDACTED] to transport his friend to the hospital. (Dept Ex. A, pp 29-30, MAHS Reg. 15-018254).
12. On September 10, 2015 at 8:08AM, Director [REDACTED] emailed Assistance Payment Supervisor [REDACTED] and Eligibility Specialist [REDACTED] the following: "Discontinue all correspondence with the individual who has been increasingly more difficult to deal with until further notice. I would suggest that you direct the emails to your junk folder." (Dept Ex. A, p 83, MAHS Reg. 15-018254).
13. Claimant was not notified by telephone, email or mail that the Department would be discontinuing all correspondence with him, per Director [REDACTED] and Assistance Payment Supervisor [REDACTED] testimony. On September 10, 2015, Claimant emailed a complaint to Director [REDACTED] indicating Eligibility Specialist [REDACTED] had not contacted him with a date for an in-person FAP interview. (Dept Ex. A, pp 35-36, MAHS Reg. 15-018254).
14. On September 20, 2015, Claimant emailed Eligibility Specialist Nees requesting a date and time for an in-person interview for his FAP benefits. (Dept Ex. A, p 38, MAHS Reg. 15-018254).
15. On September 25, 2015, the Department mailed Claimant an Appointment Notice for an application interview at the DHHS office on September 29, 2015 at 10:30am. In addition, a Quick Note was attached explaining the Claimant could have an in-person or a telephone interview on September 29, 2015. (Dept Ex. A, pp 41-42, MAHS Reg. 15-018254).
16. On September 28, 2015, Claimant emailed Eligibility Specialist [REDACTED] that he was unavailable on September 29, 2015. (Dept Ex. A, p 47, MAHS Reg. 15-018254).
17. On September 28, 2015, Claimant submitted a request for hearing. (Dept Ex. A, pp 63-72, MAHS Reg. 15-018254).
18. On September 29, 2015, Eligibility Specialist [REDACTED] emailed and mailed Claimant an Appointment Notice for either an in-person or telephone redetermination

interview on September 30, 2015 at 8:30AM. (Dept Ex. A, p 50, MAHS Reg. 15-018254).

19. On September 30, 2015, the Department closed Claimant's FAP benefit case. (Testimony of Eligibility Specialist Nees, MAHS Reg. 15-018254).
20. On September 30, 2015, the Department mailed Claimant a Notice of Missed Interview. The Notice informed Claimant he must call and reschedule before October 12, 2011 [*sic*, 2015] or his Redetermination would be denied. (Dept Ex. A, p 57, MAHS Reg. 15-018254).
21. On October 3, 2015, Claimant sent the Department a request for an in-person redetermination interview. (Dept Ex. A, pp 64-69, MAHS Reg. 15-018254).
22. On October 14, 2015, Claimant completed an in-person FAP redetermination interview with the Department. (Testimony of Eligibility Specialist Nees).
23. On October 15, 2015, the Department mailed Claimant a Notice of Case Action approving Claimant for FAP benefits of \$ [REDACTED] from October 14, 2015 through October 31, 2015 and \$ [REDACTED] a month from November 1, 2015 through September 30, 2016. (Dept Ex. A, pp 33-36, Reg. No. 15-019465).
24. On October 16, 2015, Claimant submitted a request for hearing contesting the Department's negative action. (Dept Ex. A, pp 39-41, Reg. No. 15-019465).

CONCLUSIONS OF LAW

Applicable 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.

Department policy indicates:

The Michigan Department of Health and Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210, p 1 (7/1/2015). The redetermination process includes thorough review of all eligibility factors. BAM 210, p 1.

Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210, p 2. The redetermination process begins when the client files a DHS-1010, Redetermination. BAM 210, p 2.

An interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the individual is ineligible. BAM 210, p 3.

If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview. BAM 210, p 4. The Department shall conduct a telephone interview at redetermination before determining ongoing eligibility. However, the Department shall conduct an in-person interview if one of the following exists:

- The client requests one.
- It is determined appropriate. For example, information on the application is suspected to be fraudulent.

Exception: Do not require an in-office interview if the client is experiencing a hardship which prevents an in-office interview. Instead, conduct the in-person interview at the client's home or another agreed upon location. Hardship conditions include but are not limited to: illness, transportation difficulties, work hours.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p 10. When a complete packet is received, record the receipt in Bridges as soon as administratively possible.

Policy instructs the Department in preparing to conduct the FAP interview, as follows:

- Obtain a complete redetermination/review packet from the client.
- Compare the redetermination/review document to the existing DHS-1171 or previous DHS-1010 and other case data.
 - Reconcile any discrepancies and ensure anything omitted is completed.
- Review the verifications and reconcile discrepancies.

•Verbally cover the rights and responsibilities with the client and refer them to view online, the following sections of the PUB-1010, Important Things About Programs and Services:

- Things You Must Do.
- Important Things To Know.
- Repay Agreements.
- Information About Your Household That Will Be Shared. BAM 210, p 12.

In order to receive uninterrupted benefits (benefits available on his/her scheduled issuance date), the client must file the redetermination through MI Bridges or file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the fifteenth of the redetermination month. BAM 210, p 13. To complete the redetermination process, the Department must do all of the following:

- Obtain a DHS-1171, DHS-1010 or other review document.
- Record packet received by selecting that item from the left navigation in Bridges and entering the date received.
- Review, document and verify eligibility factors as required.
- Except for Children Under 19 (U19), check all available automated systems matches to see if income has started, stopped or changed, such as consolidated inquiry, State On-line Query (SOLQ), etc. BAM 210, p 15.
- Update data collection by recording changes in circumstances and entering verifications received. BAM 210, p 16.
- Run EDBC in Bridges.
- Certify EDBC results if appropriate.
- Review the need for services and other assistance programs. BAM 210, p 16.

The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. BAM 210, p 17. If timely redetermination procedures are met, but too late to meet the normal issuance date, issue

benefits within five workdays. Bridges will issue a payment for lost benefits if the client is not at fault for delayed processing that prevented participation in the first month. BAM 210, p 17. The group loses its right to uninterrupted FAP benefits if it fails to do any of the following:

- File the FAP redetermination by the timely filing date. BAM 210, p 18.
- Participate in the scheduled interview.
- Submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210, p 18.

Any of these reasons can cause a delay in processing the redetermination. BAM 210, p 18. When the group is at fault for the delay, the redetermination must be completed within 30 days of the compliance date. If there is no refusal to cooperate and the group complies by the 30th day, issue benefits within 30 days of the compliance date. Benefits are not prorated. BAM 210, p 18.

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, p 18. Proceed as follows if the client takes the required action within 30 days after the end of the benefit period:

- Re-register the redetermination application using the date the client completed the process.
- If the client is eligible, prorate benefits from the date the redetermination application was registered. BAM 210, p 18.

At all times pertinent to this case, Claimant was receiving FAP benefits from October 1, 2014 through September 30, 2015. In order for Claimant to continue to receive uninterrupted FAP benefits, he had to timely file his redetermination packet with verifications and participate in the scheduled interview. BAM 210, p 18. Eligibility Specialist Nees credibly testified that Claimant timely filed his redetermination packet and that is not at issue. The only issue is whether Claimant timely participated in the FAP redetermination interview.

On August 17, 2015, the Department mailed Claimant notice of a Redetermination Telephone Interview for 2PM on September 10, 2015. The notice clearly instructed Claimant if he wanted an in-person interview to come to the office on September 10, 2015 at 2PM or he could participate in the interview by telephone at 2PM. Further, the notice indicated he could call no later than the day before the interview date if he wanted an in-person interview.

On August 24, 2015, Claimant requested that the September 10, 2015 interview be rescheduled. On September 3, 2015 at 7:33AM, the Department emailed Claimant offering 9AM on September 4, 2015 or September 9, 2015 as alternative dates. Claimant did not receive this email and on September 4, 2015 the Department forwarded the original 7:33AM September 3, 2015 email to the Claimant, offering the alternative dates of September 4, 2015 and September 9, 2015. The email was sent at 10:44AM on September 4, 2015 after the proposed 9AM interview and therefore was not counted as a missed interview by the Department.

In accord with policy, on September 6, 2015, the Claimant requested an in-person FAP redetermination interview for September 10, 2015 at the Roscommon library. The Claimant cited hardship involving his own health concerns of being in small places and having to be available at a moment's notice to take a friend with a heart problem to the hospital. There was no evidence presented at hearing as to what became of the proposed September 9, 2015 interview, but the Department did not issue a Missed Interview Notice.

Department policy at BAM 210, p 3 is clear in that the Department shall conduct an in-person interview if the client requests one. BAM 210, p 3. In an exception to FAP policy, the Department is instructed not to require an in-office interview if the client is experiencing a hardship which prevents an in-office interview. BAM 210, p 3. Instead, the Department is directed to conduct the in-person interview at the client's home or another agreed upon location. BAM 210, p 3. A hardship is defined as conditions that include but are not limited to: illness, transportation difficulties, and work hours. BAM 210, p 3. The Department did not respond to Claimant's September 6, 2015 hardship request.

On September 10, 2015 at 8:08AM Director [REDACTED] issued an email to Assistance Payment Supervisor [REDACTED] and Eligibility Specialist [REDACTED] stating: "Discontinue all correspondence with the individual who has been increasingly more difficult to deal with until further notice. I would suggest that you direct the emails to your junk folder." (Dept Ex. A, p 83, MAHS Reg. 15-018254). Credible testimony from all three Department personnel at the hearing indicates the Department did not telephone, email or mail the Claimant notice that the Department was discontinuing all correspondence with him for any period of time.

Director [REDACTED] testified that he issued the directive to discontinue all correspondence with Claimant because he thought Claimant's voluminous emails and multiple telephone calls were disruptive to the office and "bordered on harassment." Director [REDACTED] stated that no one had reported that Claimant had threatened any of his staff, but that it was strictly Claimant's behavior of repeatedly showing up at the DHHS office without an appointment and demanding to see his file in addition to his numerous telephone calls and emails that he found "bordered on harassment."

To the extent the directive to discontinue all correspondence with Claimant was based on the perceived harassment of the Department staff to allow a cooling off period, this

Administrative Law Judge finds that the Claimant should have been notified that his requests for the required in-person FAP redetermination interview would not be responded to by the Department for a certain period of time. Further, the Department did not cite any established Department policy allowing no contact with a client, with or without notification to the client.

During the hearing, the Claimant asked why the Department had not granted his hardship request when he filed it according to the Department's own policy. See BAM 210, p 3. Director ██████ explained that it was not common practice to allow his staff to leave the office to conduct interviews with clients because he could not ensure their safety. The Director acknowledged, however, that the October 14, 2015 FAP redetermination interview was ultimately held at the Roscommon library across the street from the Roscommon County DHHS office.

Assistance Payment Supervisor ██████ testified that she did not grant Claimant's hardship request because Claimant was often stopping by the DHHS office to drop off documents or examine his file and she did not believe he had a hardship. Assistance Payment Supervisor ██████ confirmed, however, that there was nothing put in writing denying the Claimant's hardship request. This Administrative Law Judge finds the Department did not properly respond to Claimant's hardship request dated September 6, 2015.

Beginning on September 25, 2015, the Department emailed and mailed Claimant an appointment notice for an application interview at the DHHS office for September 29, 2015 at 10:30AM. In addition, a Quick Note was attached explaining the interview could be by telephone or in-person at the DHHS office. Claimant responded on September 28, 2015 that he was unavailable on September 29, 2015, because he had a previous appointment.

On September 29, 2015 at 9:02AM the Department emailed and mailed Claimant an Appointment Notice for a FAP redetermination interview for September 30, 2015 at 8:30AM. During the hearing, the Department acknowledged through Assistance Payment Supervisor ██████ testimony that less than 24 hours was insufficient notice for a FAP redetermination interview. However, Claimant emailed Eligibility Specialist ██████ on September 30, 2015 9:46AM after the scheduled time for the interview, indicating he had received the Appointment Notice and asking her why she mailed it by USPS when he would have never received it in time. (Dept Ex. A, pp 54-55, MAHS Reg 15-018254). Eligibility Specialist ██████ emailed Claimant back at 10:09AM, explaining he could still complete his FAP redetermination interview that day before 3PM in-person or by telephone. The record does not show at what time the Claimant received this response.

On September 30, 2015 Claimant's FAP benefits closed because Claimant had failed to participate in the FAP redetermination interview. During the hearing, Eligibility Specialist ██████ pointed to the Redetermination Telephone Interview form dated August 17, 2015, which clearly indicated that failure to return the completed redetermination form,

required proofs, and participate in an interview may result in a client's FAP benefits being reduced or cancelled. (Dept Ex. A, p 9, MAHS Reg. 15-018254). A notice was not sent or required to be sent by the Department to Claimant notifying him of the closure.

Further, the previous Notice of Case Action dated September 19, 2014 was also referred to and indicated that Claimant's FAP benefits were approved from October 1, 2014 through September 30, 2015. Therefore, this Administrative Law Judge finds Claimant had sufficient notice that his benefits would close on September 30, 2015 if he failed to complete the FAP redetermination interview.

As documented, the Department scheduled multiple dates and times for Claimant to have his FAP redetermination interview during the month of September, 2015. The dates were September 4, 2015; September 9, 2015; September 10, 2015; September 29, 2015 and September 30, 2015. As previously indicated, Claimant did not timely receive information regarding the September 4, 2015 hearing at 9AM until after the scheduled hearing on September 4, 2015.

Regarding the proposed September 9, 2015 hearing date, it is unclear but it appears the Claimant asked for an in-person interview on September 10, 2015 at the library, instead of reporting to the DHHS office on September 9, 2015. For the remaining date of September 29, 2015 the Claimant timely notified the Department that he had a conflict.

Although not conclusive, the evidence shows it likely that the Claimant received the Notice of the 8:30AM September 30, 2015 interview on or about 9:46AM, on the morning of September 30, 2015. Regardless, the Department still mailed the Claimant a Notice of Missed Interview instructing the Claimant that it was now his responsibility to contact the Department and schedule his interview before October 12, 2011 [*sic*, 2015] or his redetermination would be denied. The Department also acknowledged that the notice for the interview scheduled for 8:30AM on September 30, 2015 was untimely. Based on the Department's acknowledgment of the untimely notice, this Administrative Law Judge finds the Notice of Missed Interview should not have been issued.

It is also necessary to address Claimant's hardship request. While Assistance Payment Supervisor Morley credibly testified that she denied the hardship request because she questioned the veracity of the request, the record evidence shows that the Department failed to ever notify the Claimant that the hardship request had been denied.

Further, Claimant was not notified that the Department was not to correspond with Claimant as of September 10, 2015. There was no testimony offered as to when that directive was lifted, but the record evidence shows that as of September 25, 2015, the Department once again began sending Claimant correspondence.

After a full review of the evidence and the hearing record, this Administrative Law Judge finds that there was never an agreed upon FAP redetermination interview date between the Claimant and the Department. The Claimant timely asked for changes in his

interview dates and requested a hardship based on Department policy. There was no missed interview because there was never an agreed upon date for the interview. In addition, the Department did not communicate with the Claimant for 15 days during the month of September. The Department did not offer any policy supporting the 15-day no contact period. It is more likely than not that the Claimant was not aware of the directive to DHHS staff to stop corresponding with him and as a result, the Claimant kept attempting to schedule the required FAP redetermination interview with the Department during those 14 days.

Per policy, a client has 30 days to comply with the interview requirement. In this case, Claimant had from September 1, 2015 through September 9, 2015, and September 25, 2015 through September 30, 2015 for a total of 15 days to participate in a FAP redetermination interview. From September 10, 2015 to September 25, 2015, the Department did not respond to Claimant's requests for the interview. The Department presented no evidence or authority for the 15-day cooling off period. That was 15 days out of the 30-day deadline that were not available to the Claimant for the FAP redetermination interview. Without a statutory provision, rule or policy stating otherwise, this Administrative Law Judge finds those 15 days cannot be held against the Claimant. Claimant did participate in his FAP redetermination interview on October 14, 2015, which would have been the 29th day. Therefore, this Administrative Law Judge finds Claimant had a timely FAP redetermination interview and his FAP benefits should be reinstated back to October 1, 2015.

According to BAM 210, Bridges, the Department's computer system, will issue a payment for lost benefits if the client is not at fault for delayed processing that prevented participation in the first month. BAM 210, p 17. Here, according to the evidence presented, the Claimant could not participate in a FAP redetermination interview from September 10, 2015 through September 25, 2015. As a result, Claimant lost his FAP benefits by failing to participate in the scheduled interview by September 30, 2015. However, as indicated, this Administrative Law Judge finds Claimant was not at fault for the delayed processing of his interview that prevented participation in the first month because the Department could not cite to policy, statutory law or rule allowing the 15 day cooling off period.

As to MAHS Registration Number 15-019465, the Claimant is contesting the loss of FAP benefits from October 1, 2015 through October 13, 2015, because the delay in completing his FAP redetermination interview was not his fault. The Department maintains his FAP benefits were closed for failing to participate in the FAP redetermination interview within 30 days. Department policy states:

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. If the client takes the required action within 30 days after the end of the benefit period, [the Department shall] re-register the redetermination application using the date the client completed the process. BAM 210, p 18.

In this case, Claimant completed his FAP redetermination interview on October 14, 2015. On October 15, 2015, the Department mailed Claimant a Notice of Case Action approving Claimant for FAP benefits of \$ [REDACTED] from October 14, 2015 through October 31, 2015 and \$ [REDACTED] a month from November 1, 2015 through September 30, 2016. Therefore, the Department properly approved FAP benefits for Claimant from October 14, 2015 through September 30, 2016. Claimant has not contested the amount of FAP benefits approved for this time period.

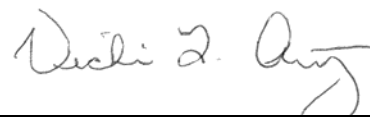
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** in MAHS Registration Number 15-019465 approving Claimant's FAP benefits from October 14, 2015 through September 30, 2016.

The Department's decision is **REVERSED** in MAHS Registration Number 15-018254 because the Department failed to show it properly closed Claimant's FAP case on September 30, 2015.

THEREFORE, THE DEPARTMENT IS HEREBY 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 Claimant's FAP eligibility from October 1, 2015 through October 13, 2015.
2. Award retroactive FAP benefits to Claimant that he is otherwise eligible to receive from October 1, 2015 through October 13, 2015.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/28/2016**

VA/nr

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

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