

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-021697
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: January 13, 2016
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner'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 January 13, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FAP benefit recipient.
2. On September 15, 2015, MDHHS mailed Petitioner a Redetermination, scheduling an interview date of October 1, 2015.
3. Petitioner failed to return the Redetermination to MDHHS.
4. MDHHS failed to issue Petitioner a Notice of Missed Interview.
5. Petitioner's FAP eligibility ended beginning November 2015, due to Petitioner's failure to complete the redetermination process.

6. On November 16, 2015, Petitioner requested a hearing to dispute the termination of FAP eligibility.

CONCLUSIONS OF LAW

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).

Petitioner requested a hearing to dispute a termination of FAP eligibility effective November 2015. It was not disputed that Petitioner's FAP eligibility expired due to her failure to complete redetermination documents.

For all programs, Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. BEM 210 (July 2015), p. 6. The packet is sent to the mailing address in Bridges. *Id.*

[For FAP eligibility,] benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.*, p. 2. The redetermination process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; DHS-2063B, Food Assistance Benefits Redetermination Filing Record. *Id.* If the client does not begin the redetermination process, [MDHHS is to] allow the benefit period to expire. *Id.*

It was not disputed that MDHHS mailed a Redetermination to Petitioner on September 15, 2015. Petitioner testimony conceded she failed to return the Redetermination by the scheduled interview date of October 1, 2015. Petitioner's testimony also conceded she missed the interview because a week earlier she had a rock thrown through her residence window. It is appreciated that a rock shattering the window of a residence is a disturbing incident. It is less appreciated that it was the cause of Petitioner's failure to return a redetermination a week later. Further, MDHHS does not allow good cause for a failure to return properly requested redetermination documents. Petitioner's testimony was not a persuasive excuse for failing to return requested redetermination documents. As it happened, a MDHHS procedural failure also occurred.

{For FAP redeterminations,} the individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210 (October 2015), p. 4. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview.

It was not disputed that Petitioner failed to participate in a FAP redetermination interview. It was also not disputed that MDHHS failed to mail Petitioner a Notice of Missed Interview form. Consideration was given to finding that the MDHHS failure to mail Petitioner a Notice of Missed Interview justified reversal of the FAP benefit expiration. Ultimately, the failure is not deemed to be fatal to the benefit closure.

If Petitioner's only failure was not participating in a FAP interview, a failure to issue a Notice of Missed Interview would be reversible error. Petitioner also failed to return the Redetermination. A Notice of Missed Interview is a required form for a missed interview; it is not required when a client fails to return a Redetermination. As noted above, when a client fails to return the Redetermination, MDHHS is to allow the benefit to expire; that is what MDHHS did.

It is found that MDHHS properly allowed Petitioner's FAP eligibility to expire after Petitioner failed to return redetermination documents. Accordingly, the termination of Petitioner's FAP eligibility was proper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP benefit eligibility, effective November 2015. The actions taken by MDHHS are **AFFIRMED**.



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

Date Signed: **1/20/2016**

Date Mailed: **1/20/2016**

CG/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:

