

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

IN THE MATTER OF:



MAHS Reg. No.: 15-020155
Issue No.: 3003
Agency Case No.: [REDACTED]
Hearing Date: January 14, 2016
County: Wayne (57)

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, an in-person hearing was held on January 14, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], supervisor, and [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. Petitioner's FAP eligibility was scheduled to expire at the end of March 2016.
3. On an unspecified date, MDHHS shortened Petitioner's FAP eligibility benefit period so that it ended after October 2015.
4. Petitioner's FAP eligibility expired at the end of October 2015, after Petitioner failed to return redetermination documents.
5. On October 23, 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's original hearing request dated October 23, 2015, did not specify a need for special arrangements. Petitioner subsequently submitted an in-person hearing request to the Michigan Administrative Hearing System on November 23, 2015. The request included a request that "all electronic devices" including "cell phones, and personal computers, cameras and other recording devices be removed prior to the hearing." At the outset of the hearing, Petitioner expressed objections that the hearing room included a computer and telephone. Petitioner also expressed concern that MDHHS booted-up the computer during the hearing. Turning on a computer is not persuasive evidence of an attempt to clandestinely record the hearing. Petitioner's request for accommodation was rejected and the hearing proceeded in the same room as a telephone and computer against Petitioner's unreasonable objections.

Petitioner's hearing request indicated a FAP benefit dispute. Petitioner repeatedly ranted and her testimony was difficult to pin-down when she was asked what MDHHS action she was disputing. The only MDHHS action directly impacting Petitioner's FAP eligibility was a termination of FAP benefits beginning November 2015. MDHHS testimony indicated the termination was caused by Petitioner's failure to comply with redetermination requirements.

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.*

MDHHS presented the first page of a Redetermination (Exhibit 1, p. 1) mailed to Petitioner on September 15, 2015. The document included a copy of "return to sender" information from the United States Postal Service (USPS). The document was stamped

as returned to MDHHS on September 28, 2015. Petitioner's testimony conceded she did not receive the Redetermination.

Petitioner expressed skepticism that the USPS would have stamped the letter as undeliverable on September 27, 2015, as indicated by the USPS stamp. Petitioner testimony also noted that the USPS information on the Redetermination was not verified to correspond to the Redetermination. Petitioner's testimony argued that MDHHS purposely mailed an undeliverable document and/or forged presented documentation to make it appear that a legitimate mailing occurred. Petitioner's arguments were improbable and far-fetched. It is found that MDHHS properly mailed Petitioner a Redetermination on September 15, 2015.

Petitioner's testimony conceded she received a Notice of Missed Interview document (Exhibit 1, p. 2), dated October 1, 2015. Petitioner's testimony further conceded she did not complete the redetermination process because she never received the Redetermination. It is of no matter why Petitioner failed to complete the redetermination process as long as MDHHS complied with their redetermination procedures. It should be noted that Petitioner had ample time to obtain a new redetermination during October 2015 and to complete redetermination procedures; Petitioner failed to do so.

At this point in the analysis, Petitioner provided little support to justify a reversal of the FAP benefit termination. Petitioner presented one other argument to dispute the FAP benefit termination.

It was not disputed that MDHHS originally redetermined Petitioner to be eligible for FAP benefits beginning April 2015 through March 2016. It was not initially understood why Petitioner was required to return redetermination documents by the end of October 2015 (several months before the scheduled end of her benefit period). It was eventually learned that MDHHS shortened Petitioner's benefit period. MDHHS presented credible testimony that Petitioner's benefit period was shortened because MDHHS did not have Petitioner's redetermination documents from March 2015.

MDHHS policy allows the shortening of benefit periods in limited circumstances. Redeterminations may be scheduled early or are scheduled less than 12 months apart when necessary for... error-prone cases, in response to supervisory case readings, quality assurance data or quality enhancement data... BAM 210 (July 2015), p. 1.

Petitioner presented a Redetermination (Exhibit A, pp. 7-12), dated February 28, 2015. The Redetermination included MDHHS' office date stamps of March 6, 2015 on multiple pages. The evidence was persuasive in establishing that Petitioner submitted a Redetermination to MDHHS on March 6, 2015.

The submission of the Redetermination was disputed at a previous hearing but was ultimately not relevant to the outcome. In dicta, the presiding ALJ (yours truly) wrote, "... DHHS has discretionary authority to terminate Claimant's FAP eligibility for a failure to

submit a Redetermination... Such a course is not barred, but it is discouraged as Claimant appears to have complied with her redetermination submission requirements.”

MDHHS policy grants some discretion for changing benefit periods. If MDHHS acts in a reasonable manner, the discretion will be honored. The present case does not merit such discretion.

Considering MDHHS already redetermined Petitioner’s FAP eligibility, it is reasonably possible that MDHHS had Petitioner’s redetermination documents. If MDHHS lost or misplaced them, MDHHS could have used the redetermination documents presented by Petitioner at the previous hearing; had MDHHS done so, MDHHS would have had no need to shorten Petitioner’s eligibility in the present case. Thus, MDHHS likely had or could have had Petitioner’s redetermination document on two occasions; a further requirement for Petitioner to submit the redetermination documents is deemed to be wholly unnecessary and beyond the discretion of MDHHS policy. It is found that MDHHS improperly terminated Petitioner’s FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner’s FAP eligibility. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner’s FAP benefit period ending March 2015, subject to the finding that MDHHS improperly shortened Petitioner’s FAP eligibility; and
- (2) issue any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



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:

