



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR



Date Mailed: March 3, 2016
MAHS Docket No.: 16-000174
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 23, 2016, from Grand Rapids, Michigan. The Petitioner, [REDACTED], appeared on his own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager (FIM).

The Department's hearing packet was admitted as Department Exhibit A, pp. 1-8.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case based on a failure to complete the 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. Petitioner received FAP benefits.
2. On November 16, 2015, a Redetermination form was issued to Petitioner with a due date to complete and return the form of December 1, 2015. It was also noted that a telephone interview was scheduled for 8:00 a.m. on December 1, 2015. (Department Exhibit A, p. 3)

3. On November 16, 2015, a Redetermination Telephone Interview notice was issued to Petitioner for a telephone interview scheduled for 8:00 a.m. on December 1, 2015. It was also noted that the Department must have the completed redetermination form in order to complete the interview. (Department Exhibit A, p. 2)
4. On December 1, 2015, the Department issued a Notice of Missed Interview to Petitioner. (Department Exhibit A, p. 4)
5. On December 1, 2015, the Department received written correspondence from Petitioner, in part, asking for help completing the redetermination form and requesting re-scheduling of the telephone interview because the scheduled time conflicted with his employment schedule. (Department Exhibit A, p. 5, FIM Testimony)
6. On December 1, 2015, the Department initiated closure of Petitioner's FAP benefit case to be effective January 1, 2016, based on the redetermination packet not returned timely. (Department Exhibit A, p. 1)
7. On January 8, 2016, Petitioner filed a hearing request contesting the Department's action. (Department Exhibit A, pp. 6-7)

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105, July 1, 2015, p. 8.

The local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105, p. 14.

The Department of Health and Human Services must periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes

thorough review of all eligibility factors. Redetermination, semi-annual, and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, October 1, 2015, p. 1.

For 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.

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

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

In this case, Petitioner's FAP case was due for Redetermination in December 2015. On November 16, 2015, a Redetermination form was issued to Petitioner with a due date to complete and return the form of December 1, 2015. It was also noted that a telephone interview was scheduled for 8:00 a.m. on December 1, 2015. (Department Exhibit A, p. 3) On November 16, 2015, a Redetermination Telephone Interview notice was issued to Petitioner for a telephone interview scheduled for 8:00 a.m. on December 1, 2015. It was also noted that the Department must have the completed redetermination form in order to complete the interview. (Department Exhibit A, p. 2)

On December 1, 2015, the Department issued a Notice of Missed Interview to Petitioner. (Department Exhibit A, p. 4) The Department noted that the redetermination form was not returned timely. Accordingly, on December 1, 2015, the closure of the case was initiated to be effective January 1, 2016. (Department Exhibit A, p. 1)

However, a printout from the electronic case record of documents received from Petitioner shows that on December 1, 2015, the Department received a written statement from Petitioner. (Department Exhibit A, p. 5) The FIM pulled this up on the Department's computer system and read the correspondence into the record. In part, Petitioner asked for help completing the redetermination form and requested re-scheduling of the telephone interview because the time it was scheduled for conflicted with his employment schedule. (Department Exhibit A, p. 5, FIM Testimony) The FIM reviewed the electronic case record and found nothing indicating the Department contacted Petitioner in response to the December 1, 2015, letter requesting assistance completing the redetermination form and re-scheduling of the telephone interview.

Petitioner's testimony indicated he had questions about completing the redetermination form, such as how to report a change in his rent that had not yet gone into effect, as well as a need for assistance with obtaining verification of this change. (Petitioner Testimony)

The Department's determination to close Petitioner's FAP case was not in accordance with the above-cited Department policy. Petitioner contacted the Department in writing on December 1, 2015, requesting assistance completing the redetermination form and re-scheduling of the telephone interview. The Department is responsible for assisting clients who ask for help in completing forms or gathering verifications. BAM 105, p. 14 Further, the Notice of Missed Interview itself advised Petitioner that the interview needed to be re-scheduled before December 31, 2015, and provided the information to contact information for the local Department office worker. The FIM indicated the telephone interview would not have been re-scheduled until the completed redetermination form was submitted. (FIM Testimony) As noted above, there was no evidence that the Department responded to Petitioner's December 1, 2015 request for assistance completing the redetermination form and re-scheduling of the phone interview.

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 Petitioner's FAP case based on a failure to complete the Redetermination.

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. Re-determine Petitioner's eligibility for FAP retroactive to the January 1, 2016, effective date in accordance with Department policy.

CL/mc



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]