



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: February 7, 2018
MAHS Docket No.: 17-016932
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; 42 CFR 438.400 to 438.424; 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 February 5, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator.

ISSUE

Did the Department properly allow Petitioner's Food Assistance Program (FAP) benefit case to close?

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 recipient.
2. On October 4, 2017, the Department sent Petitioner redetermination paperwork, along with a notice of an interview appointment date of [REDACTED], 2017 (Exhibit A).
3. On November 1, 2017, the Department sent Petitioner a Notice of Missed Interview, informing him that he was required to rescheduled his interview prior to November 30, 2017 (Exhibit B).
4. On November 17, 2017, Petitioner submitted his redetermination paperwork.

5. On November 30, 2017, the Department sent Petitioner an Appointment Notice informing him that he had an in-person appointment for an interview on [REDACTED], 2017.
6. Petitioner's FAP benefit period expired effective November 30, 2017.
7. On December 14, 2017, Petitioner submitted 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 must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 1. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 1. Part of the redetermination process for FAP cases includes conducting an interview. BAM 210, p. 5. The FAP group will lose its right to uninterrupted benefits if it fails to do the following: i) file the FAP redetermination by the timely filing date; (ii) participate in the scheduled interview; and (iii) submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210, p. 20. The timely filing date is the fifteenth day of the redetermination month. BAM 210, p. 15. Any of these reasons can cause a delay in processing the redetermination. BAM 210, p. 20. When the group is at fault for the delay, the redetermination must be completed within 30 days of the compliance date. BAM 210, p. 20.

In this case, Petitioner was sent redetermination paperwork on October 4, 2017. The redetermination paperwork was due by November 1, 2017. Additionally, Petitioner was sent notice on October 4, 2017, of an interview that was scheduled on [REDACTED], 2017. Petitioner did not participate in an interview on [REDACTED] 2017. As a result, the Department sent Petitioner a Notice of Missed Interview on November 1, 2017, informing him he was required to reschedule his interview by November 30, 2017. On November 17, 2017, Petitioner submitted his redetermination paperwork. As a result,

the Department sent Petitioner an Appointment Notice on November 30, 2017, informing him that he had an interview scheduled on [REDACTED], 2017. Petitioner did not attend the [REDACTED], 2017 interview. As a result, the Department allowed Petitioner's benefit period to expire as of November 30, 2017, and did not certify a new benefit period.

On December 14, 2017, an individual with [REDACTED] contacted Petitioner's worker on Petitioner's behalf (Exhibit E). In the correspondence, the [REDACTED] worker indicated Petitioner and [REDACTED] attempted to reschedule the [REDACTED], 2017 interview, due to a conflicting doctor appointment. Additionally, Petitioner testified at the hearing he made several attempts to contact his worker two days prior to the [REDACTED], 2017 scheduled interview. Petitioner stated he never received a return phone call from his worker.

Petitioner's testimony that he attempted to reschedule the interview was credible. On the appointment notice dated November 30, 2017, Petitioner was advised that if he could not attend the [REDACTED], 2017 appointment, he needed to contact his worker prior to the date to reschedule. As Petitioner attempted to comply with the requirements set forth by the Department and had good cause for his failure to attend the [REDACTED], 2017 interview, the Department failed to establish that it acted in accordance with policy when it processed Petitioner's redetermination.

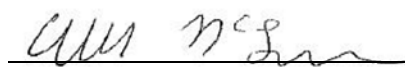
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's redetermination. 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. Reprocess Petitioner's redetermination;
2. If Petitioner is eligible for FAP benefits, issue supplements he was entitled to receive but did not as of December 1, 2017, ongoing;
3. Notify Petitioner of its FAP decision in writing.

EM/cg

A handwritten signature in dark ink, appearing to read "Ellen McLemore", is positioned above a horizontal line.

Ellen McLemore

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

Via Email:

MDHHS-Wayne-41-Hearings
M. Holden
D. Sweeney
BSC4-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

