



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: July 11, 2018  
MAHS Docket No.: 18-004683  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 July 11, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Ebony Hill, Eligibility Specialist.

**ISSUE**

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

Did the Department properly fail to issue Petitioner replacement FAP benefits?

**FINDINGS OF FACT**

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

1. On March 1, 2018, Petitioner was scheduled for a telephone interview.
2. The telephone interview did not take place because the Department had not received a completed Redetermination form from the Petitioner.
3. On March 1, 2018, a Notice of Missed Interview form was sent to Petitioner; but the Notice did not mention anything regarding a failure to submit a Redetermination form as the reason why the Department failed to call Petitioner.

4. From March 2, 2018, onward, Petitioner made at least one call per day every week day to her case worker, her case worker's manager, and the district manager to try and figure out why she had not received her call for the interview.
5. On March 12, 2018, the Department received Petitioner's FAP Benefits Redetermination Filing Record.
6. On March 27, 2018, the Department issued a new Redetermination to Petitioner after noticing her repeated calls and that it had only received the Filing Record rather than the entire packet.
7. On April 30, 2018, the Department District Manager finally spoke with the client and told her that the case had been closed because she failed to complete the interview; and the interview was not held because she failed to return the completed Redetermination.
8. On May 7, 2018, Petitioner submitted her hearing request disputing the closure of her FAP benefits as well denial of food benefits replacement after a power outage.
9. The Department never received a DHS-601 Food Replacement Affidavit from Petitioner.

### **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.

In this case, Petitioner's FAP case was closed after she failed to complete the interview with the Department and to return a completed Redetermination form. A complete redetermination is required at least every 12 months. BAM 210 (January 2018), p. 3. Benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. *Id.* If the client does not begin the redetermination process, the benefit period expires. *Id.* The process begins when the client files an Assistance Application and Supplement-Food Assistance Program form, a Redetermination, a filing form, or a Food Assistance Benefits Redetermination Filing Record. *Id.* Interviews are required as part of the FAP redetermination process and

can be completed by phone. BAM 210, pp. 5-6. Redetermination interviews can be conducted by phone and if the client misses the interview, a Notice of Missed Interview is mailed to the client. BAM 210, p. 6. The Redetermination and Interview notice are included in the same packet. The packet includes all of the following:

- Redetermination
- Notice of review as determined by policy
- Interview date
- Interview type
- Place and time
- Required verifications
- Due date
- Return envelope

BAM 210, pp. 8-9.

Policy provides that in conducting the interview, the Department should:

- Obtain a complete redetermination/review packet from the client.
- Compare the redetermination/review document to the existing application and program specific supplemental forms or redeterminations.
- Reconcile differences, discrepancies, or omissions.
- Review verifications and reconcile discrepancies.
- Verbally review the rights and responsibilities with the client and refer them to information available online about the program.

BAM 210, pp. 14-15. Finally, policy provides that the client shall receive uninterrupted benefits if the client provides the Department with a Redetermination, Assistance Application, or Food Assistance Benefits Redetermination Filing Record DHS-2063-B by the 15<sup>th</sup> of the redetermination month. BAM 210, pp. 15-16. However, if the Redetermination packet described above is not received and logged by the Department by the last working day of the redetermination month, Bridges automatically closes the case. BAM 210, p. 13.

The parties agree that Petitioner was supposed to have an interview on March 1, 2018. The Department did not call Petitioner on March 1, 2018, because Petitioner had not returned the completed Redetermination. As shown above, policy provides that during the interview, not before the interview, a completed redetermination should be received by the Department. While it may be difficult for the Department to obtain a completed Redetermination during the actual interview if it is held by phone, it is not impossible given the availability of faxes, emails, and online forms utilized by the Department. Therefore, the Department erred in failing to call the Petitioner for the interview.

In addition, the record is clear that Petitioner contacted the Department office consistently without receiving a timely response. This case could have been avoided if someone had called the client back within a reasonable time frame and answered her questions. Instead, the Department opted to mail the client new copies of documents previously sent when it realized Petitioner had been calling about her missed interview. Policy provides that the local office of the Department must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence from the Department. BAM 105 (January 2018), p. 15. The Department failed to follow through on its obligation to assist the client even after repeated calls from Petitioner.

Petitioner's second concern from her request for hearing was that she did not receive food assistance replacement benefits after a power outage. Policy provides that replacements and reauthorizations are processed only if the client timely reports the loss within 10 days due to domestic misfortune or disaster. BAM 502 (July 2017), p. 1. If day 10 falls on a weekend or holiday, it is still considered timely if reported on the next business day. *Id.* Clients must attest to the amount of food loss on a DHS-601 Food Replacement Affidavit. BAM 502, p. 2. The Department testified that it had never received a DHS-601 Food Replacement Affidavit from Petitioner, and Petitioner did not provide any evidence that she had submitted one or otherwise requested replacement assistance. Therefore, the Department acted correctly in failing to provide Petitioner with FAP replacement benefits.

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 but acted in accordance with policy in failing to provide Petitioner with replacement FAP benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED in part** with respect to the failure of the Department to issue FAP replacement benefits and **REVERSED in part** with respect to the closure of Petitioner's FAP case.

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. Reinstate Petitioner's FAP benefits case as of the time of its closure for failure to complete the Redetermination interview;
2. Redetermine Petitioner's FAP eligibility;

3. If Petitioner is otherwise eligible, provide supplements to Petitioner for benefits not previously issued in compliance with Department policy; and
4. Notify Petitioner in writing of its decision.



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**Amanda M. T. Marler**  
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) 763-0155; 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**

Denise McCoggle  
MDHHS-Wayne-15-Hearings

**Petitioner**

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