



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: October 18, 2018
MAHS Docket No.: 18-009390
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 October 11, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Tonya Boyd, Family Independence Manager. During the hearing, a packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-41.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case for allegedly failing to participate in the Redetermination process?

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 in a group of one.
2. On June 4, 2018, the Department issued to Petitioner a Redetermination, Form 1010, in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Petitioner was required to return the completed form by July 2, 2018. The document informed Petitioner that Petitioner would receive a phone call from her specialist from DHHS on July 2, 2018, at 9:00 am for the purposes of conducting a Redetermination interview. The document warned Petitioner that failure to keep the July 2, 2018, appointment or turn in any of the

required documents by the due date could result in the cancellation of her FAP benefits. Further, the document directed Petitioner to contact her specialist by the due date if she needed any assistance. Exhibit A, pp. 8-15.

3. On June 18, 2018, Petitioner returned to the Department the completed Redetermination along with all required proofs. Exhibit A, pp. 8-15.
4. On July 2, 2018, Petitioner's specialist did not call at any point in time.
5. On July 2, 2018, the Department issued to Petitioner a Notice of Missed Interview informing her that she missed her scheduled Redetermination interview. The document warned Petitioner that her FAP case would be closed unless she took further action to ensure that the interview was rescheduled on or before July 31, 2018. Exhibit A, p. 6.
6. Repeatedly throughout the month of July of 2018, Petitioner called her specialist in order to reschedule the interview. Petitioner's specialist never answered the phone, so Petitioner left numerous messages. Petitioner's specialist did not return any of those messages.
7. Effective August 1, 2018, Petitioner's FAP benefits case closed as a result of the incomplete Redetermination process.
8. On August 13, 2018, Petitioner once again attempted to contact someone at the Department in order to discuss what was going on. The following day, Petitioner's specialist finally contacted Petitioner to do the Redetermination interview. During the interview, Petitioner and the specialist argued about a job separation that occurred in March of 2018. Petitioner felt she was being treated disrespectfully and terminated the phone call. Immediately thereafter, Petitioner began calling her specialist's supervisor and leaving messages. During the hearing, Petitioner credibly testified that she left no fewer than 12 messages without receiving a call back.
9. On August 24, 2018, Petitioner submitted an application for FAP benefits. Exhibit A, pp. 17-22.
10. On September 5, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was approved for FAP benefits of \$49 from August 24, 2018, through August 31, 2018, and \$192 per month from September 1, 2018, through July 31, 2019. Exhibit A, pp. 32-36.
11. On September 12, 2018, Petitioner submitted a request for hearing objecting to the Department's closure of her FAP case.

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 due for redetermination as her benefit period was coming to an end on July 31, 2018. Accordingly, the Department sent to Petitioner a Redetermination form on June 4, 2018, with a due date of July 2, 2018. The Redetermination informed Petitioner that she had a Redetermination interview on July 2, 2018, at 9:00 a.m. It further informed her that failure to return the completed Redetermination or participate in the Redetermination interview could result in her FAP case closing. Petitioner returned the completed Redetermination on June 18, 2018. However, for some reason, the Department did not properly process this submission. Instead, the Department deemed Petitioner's Redetermination paperwork to be incomplete.

When the time came for the Redetermination interview, Petitioner was ready, willing, and able to participate. However, the Department specialist failed to call Petitioner at the scheduled interview time on July 2, 2018. Instead, the Department issued Petitioner a Notice of Missed Interview informing Petitioner that she missed the interview and giving her instructions on how to avoid her case being closed at the end of the month. Petitioner diligently and persistently attempted to follow those instructions by repeatedly calling the number on the form and leaving messages. Despite her exhaustive efforts, the Department closed her FAP case at the end of July of 2018 because of her alleged failure to participate in the Redetermination process.

Periodically, the Department must redetermine or renew a client's eligibility for FAP benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 3. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, FAP benefits stop at the end of the benefit period. BAM 210, p. 3. Part of the redetermination process is an interview. BAM 210, p. 5. If a client misses the interview, the Department is required to send a Notice of Missed Interview. BAM 210, pp. 6-7. If the client then fails to reschedule and participate in the interview by the end of the month, the group loses its right to uninterrupted FAP benefits. BAM 210, p. 21.

While it is true that Petitioner's benefit period came to an end without Petitioner having completed the Redetermination process, Petitioner is in no way at fault. The Redetermination process includes a submission of paperwork and an interview. Petitioner timely submitted all of the paperwork she was required to submit. The Department failed to follow policy and properly process those submissions as being responsive to the Redetermination. Likewise, Petitioner's failure to participate in a Redetermination interview prior to her benefit period ending was not for lack of effort on her part. Petitioner was ready for the Redetermination interview. Her specialist never called like she was supposed to. Prior to her case closing, Petitioner made countless calls and left countless messages with multiple people within the Department after the specialist inexplicably failed to contact Petitioner for the interview. All of those calls went unanswered and unreturned.

Petitioner's benefit period was set to end, so the Department timely initiated the Redetermination process. Petitioner was clearly informed of the interview, the consequences for missing the interview, and how to avoid those consequences in a timely manner. Petitioner followed those instructions and took much more than reasonable action before the benefit period had expired. The Department failed to reasonably respond to any of Petitioner's numerous pleas for help. In closing Petitioner's FAP case, the Department failed to act according to Department policy.

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 act in accordance with Department policy when it closed Petitioner's FAP case.

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 closed Petitioner's FAP case effective August 1, 2018.

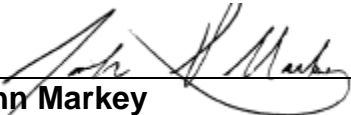
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's FAP case, effective August 1, 2018;
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and

3. Issue written notice of any case action(s) in accordance with Department policy.

JM/dh


John Markey
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
27260 Plymouth Rd
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Department Representative

Office of Child Support (OCS)-MDHHS
201 N Washington Square
Lansing, MI 48933

Petitioner

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