

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

**IN THE MATTER OF:**



Reg. No.: 2014-21550  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: February 5, 2014  
County: Wayne (82-19)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**HEARING DECISION**

Following Claimant'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. After due notice, a telephone hearing was held on February 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's mother and authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

**ISSUE**

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

**FINDINGS OF FACT**

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

1. Claimant was an ongoing recipient of FAP benefits.
2. Claimant was in a nursing home receiving rehabilitation services from December 6, 2013, to December 22, 2013.
3. On December 26, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP case would close effective February 1, 2014.
4. On January 6, 2014, Claimant filed a request for hearing disputing the Department's actions.

## **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, the December 26, 2013, Notice of Case Action notifying Claimant that his FAP case would close effective February 1, 2014, explained that the case was closing because “you requested that your assistance be stopped.” There was no evidence presented at the hearing that Claimant requested that his FAP case be closed. To the contrary, Claimant contested the closure of his FAP case. Therefore, to the extent the Department relied on a request by Claimant to justify closure of his FAP case, the Department did not act in accordance with Department policy. See BAM 220 (January 2014), pp. 4-5.

The Notice also provides in the “comments from your specialist” section that Claimant was residing in a nursing home. At the hearing, the Department explained that it closed Claimant’s FAP case because it became aware that Claimant was in a nursing home. The Department explained that, when the nursing home contacted the Department concerning Claimant’s Medicaid (MA) benefits, it was required to close Claimant’s FAP case. The only policy the Department cited in support of its position was BEM 212.

BEM 212 (February 2014), p. 3, provides that a person who is temporarily absent from the FAP group is considered living with the group and eligible for FAP benefits. An absence is temporary if all of the following conditions are satisfied: (i) the person’s location is known, (ii) the person lived with the group before the absence, (iii) there is a definite plan for return, (iv) the absence has lasted or is expected to last 30 days or less. BEM 212, p. 3. It is further noted that a resident of a medical hospital is eligible for FAP even if he resides in the hospital for more than 30 days when there is a plan for the person’s return home. BEM 212, pp. 3, 8.

In this case, Claimant was in a nursing home receiving rehabilitation services. There was no evidence presented by the Department to show that the facility did not meet the definition of a medical hospital. Furthermore, even though the Department was aware of Claimant’s location, it made no attempt to determine whether his absence from his home was expected to last more than 30 days. The evidence in this case showed that Claimant was in the facility from December 6, 2013, to December 22, 2013, less than 30 days. As of February 1, 2014, the date Claimant’s FAP case was scheduled to close,

Claimant was no longer in the rehabilitation facility. See BAM 220 (January 2014), p. 12.

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 Claimant's FAP case.

**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. Reinstate Claimant's FAP case effective February 1, 2014; and
2. Issue supplements to Claimant for FAP benefits he was eligible to receive but did not from February 1, 2014 ongoing.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: February 10, 2014

Date Mailed: February 10, 2014

**NOTICE OF APPEAL:** The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

ACE/pf

cc:

