

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-21140
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: February 6, 2014
County: Macomb-12

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (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. Claimant was an on-going FAP recipient.
2. On October 1, 2013 the Department mailed to her a Semi-Annual Contact form that she needed to complete and return by November 1, 2013.
3. When Claimant did not return the form by the due date, a Notice of Potential Food Closure was mailed on November 10, 2013, telling Claimant that her FAP would be closed effective November 30, 2013.
4. Claimant's FAP was closed effective November 30, 2013.
5. On January 9, 2014, Claimant requested a hearing.

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.

The Semi-Annual Contact Form (DHS-1046) includes instructions and notices. The Claimant is told that she must complete the form, sign and date it, and return it with proof of changes by a certain date. It also informs her that if she does not sign and return the form with all required proofs, her "benefits will be cancelled or reduced." In this case, the form was mailed on October 1, 2013, and it was due back November 1, 2013. The Claimant was specifically told that if she did not comply, her "Food Assistance Case will close effective 11/30/2013."

Claimant testified that she was having some problems getting mail delivered from early November until mid-December 2013. She testified that she did not receive the DHS-1046, or the Notice of Potential Food Assistance (FAP) Closure that was mailed November 10, 2013. She agreed with the Department's witness that she received a Redetermination form that was mailed November 12, 2013 (which she completed and returned) and the Notice of Case Action mailed December 20, 2013.

These are difficult cases. The Claimant testified that she received some, but not all, of the documents the Department mailed to her. She completed and returned a Redetermination that was mailed to her. It comes down to a matter of credibility. Can the Claimant be believed?

Because the Claimant completed and returned the Redetermination timely, and considering the consistency of her testimony that she did not receive the DHS-1046 or the Notice of Case Action, I find her testimony credible that she did not receive the DHS-1046 because she seemed intentional about complying with Department requirements.

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.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** with respect to the finding that Claimant's FAP is to be reduced beginning December 1, 2013.

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. Redetermine Claimant's FAP benefit eligibility, effective December 1, 2013;
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 6, 2014

Date Mailed: February 6, 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

DTJ/las

cc:

