

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012149
Issue No.: 1000, 3000
Case No.: [REDACTED]
Hearing Date: October 22, 2014
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 October 22, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Claimant present a timely request for a hearing?

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 12, 2014, the Claimant applied for cash assistance and Food Assistance Program (FAP) benefits.
2. On April 25, 2014, the Department denied the Claimant's application for cash assistance and closed her Food Assistance Program (FAP) benefits that had been opened on an expedited basis.
3. On May 5, 2014, the Department received the Claimant's request for a hearing to protest the denial of cash assistance and closure of her Food Assistance Program (FAP) benefits.
4. On June 17, 2014, the Claimant withdrew her request for a hearing.
5. On August 7, 2014, the Department received the Claimant's request for a hearing to protest the closure of Food Assistance Program (FAP) benefits.

**ORDER OF DISMISSAL
FOR LACK OF JURISDICTION**

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

The Department notified the Claimant on April 25, 2014, that it had denied her application for cash assistance and closed her Food Assistance Program (FAP) benefits that had been opened on an expedited basis. The Department received a request for a hearing to protest these actions, but before the hearing, the Claimant withdrew her request for a hearing.

On August 7, 2014, the Department received the Claimant's request for a hearing protesting the closure of Food Assistance Program (FAP) benefits. The evidence on the record does not support a finding that the Claimant re-applied for Food Assistance Program (FAP) since March 12, 2014, or that the Department took subsequent action with respect to her Food Assistance Program (FAP) benefits.

The Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits on April 25, 2014. The Claimant had until July 24, 2014, to submit a timely request for a hearing to protest that closure. The Department did not receive the Claimant's request for a hearing until August 7, 2014.


Therefore, the Claimant's August 7, 2014, request for a hearing does not fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS), and must be dismissed.

The Claimant's request for a hearing was received by e-mail. In the alternative, if the Claimant's request for a hearing was found to be timely, this Administrative Law Judge finds that this request for a hearing must then be dismissed because the issue presented by the Claimant has already been resolved by a previous hearing.

The Claimant requested a hearing on April 25, 2014, but later withdrew this request. This Administrative Law Judge finds that the Claimant's withdrawal of her request for a hearing is a final decision that cannot be reopened by the submission of another request for a hearing.

Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/23/2014**

Date Mailed: **10/23/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

