

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

IN THE MATTER OF:



Reg. No.: 14-014257
Issue No.: 3002, 2000
Case No.: [REDACTED]
Hearing Date: November 17, 2014
County: WAYNE-19 (INKSTER)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 November 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's case Food Assistance Program (FAP) case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant was an ongoing recipient of Food Assistance (FAP) benefits.
2. Claimant was required to submit requested verification by September 29, 2014.
3. On October 31, 2014, the Department closed the Claimant's FAP case due to the Claimant's failure to file the New Hire Client Notice documents by the due date.
4. On October 3, 2014, the Department sent Claimant notice of its action. Exhibit 2
5. The Claimant's HMP case was not closed by the Department at any time. Exhibit 3
6. The Claimant indicated that the Notices were returned by mail on September 28, 2014.

7. The Claimant requested a hearing on October 10, 2014 protesting the closure of her FAP case and HMP medical assistance.
8. On October 10, 2014, Claimant filed a hearing request, protesting the Department's action.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Additionally, in this case the Claimant credibly testified that she returned the Notices of New Hire on September 28, 2014 before the due date, by placing the completed form in the mail. The Claimant specifically recalled mailing the envelope and spoke to both her case workers who indicated the documents were not received, but may not have been downloaded and scanned yet. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The Department further testified to difficulties with a new procedure requiring the scanning of received mail. Based upon the evidence and the record presented, it is determined that the Claimant timely completed the Notices, and provided check stubs with regard to Gonzalez and her Food Assistance case should not have been closed. BAM 130. (7/1/14).

The evidence presented by the Department regarding the Claimant's HMP medical assistance was that the Claimant's HMP was open and, therefore, there is no issue to be decided about the closure of the Claimant's Medical Assistance. Exhibit 3

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 the Claimant's FAP case for failure to complete the New Client Hire Notices.

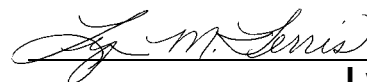
DECISION AND ORDER

Accordingly, the Department's decision is

REVERSED IN PART with respect to the FAP case closure, and DISMISSED with respect to the Claimant's hearing request regarding the closure of her medical assistance.

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. The Department shall reinstate the Claimant's FAP case retroactive to the date of closure, October 31, 2014.
2. The Department shall issue a supplement to the Claimant for FAP benefits she is otherwise entitled to receive in accordance with Department policy.



Lynn Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/21/2014**

Date Mailed: **11/21/2014**

LMF/tm

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:

