

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 14-002962
Issue No.: 3003
Case No.: ██████████
Hearing Date: June 23, 2014
County: WAYNE-DISTRICT (57)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 June 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist; and ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective May 1, 2014, to May 15, 2014?

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 is an ongoing recipient of FAP benefits. See Exhibit 1, p. 9.
2. On March 3, 2014, the Department sent Claimant a Semi-Annual Contact Report ("contact report"), which was due back by April 1, 2014. See Exhibit 1, pp. 4-5.
3. On March 11, 2014, Claimant mailed to the Department the contact report. See Exhibit A, pp. 1-2.
4. On April 10, 2014, the Department sent Claimant a Notice of Potential FAP Closure due to the Department not receiving the contact report and her FAP benefits would close effective April 30, 2014. See Exhibit 1, p. 6.

5. From May 1, 2014, to May 15, 2014, Claimant's FAP benefits closed. See Exhibit 1, p. 9.
6. On May 16, 2014, Claimant reapplied for FAP benefits and a Notice of Case Action was sent to Claimant notifying her that she was approved from the date of application, ongoing. See Exhibit 1, pp. 7-8.
7. On May 23, 2014, Claimant filed a hearing request, protesting her FAP case closure. See Exhibit 1, pp. 2-3.

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 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 must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

The Department sends a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (October 2013), p. 8. A report is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 9. The semi-annual contact report must be recorded, data collection updated and eligibility determination and benefit calculation (EDBC) results certified in the Department's system by the last day of the sixth month of the benefit period to affect benefits no later than the seventh month. BAM 210, p. 9. The contact is met by receipt of a completed DHS-1046 and required verifications. BAM 210, p. 9.

If the DHS-1046 is not logged in by the 10th day of the sixth month, the Department will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. BAM 210, p. 11. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month, or the case will close. BAM 210, p. 11.

If the client fails to return a complete DHS-1046 by the last day of the sixth month, the Department will automatically close the case. BAM 210, p. 11. If the client reappplies, treat it as a new application and the Department will prorate the benefits. BAM 210, p. 11.

In this case, Claimant is an ongoing recipient of FAP benefits. See Exhibit 1, p. 9. On March 3, 2014, the Department sent Claimant a contact report, which was due back by April 1, 2014. See Exhibit 1, pp. 4-5. The Department testified that it never received the contact report by the April 1, 2014, due date nor by the end of the benefit period (April 30, 2014). Thus, on April 10, 2014, the Department sent Claimant a Notice of Potential FAP Closure due to the Department not receiving the contact report and her FAP benefits would close effective April 30, 2014. See Exhibit 1, p. 6.

Additionally, on or around May 15, 2014, the Department received a call from the Claimant regarding the closure of the FAP benefits. A few days after, the Department testified that it received a copy of the contact report via email for the first time; however, it was after the due date. On May 16, 2014, Claimant reapplied for FAP benefits and a Notice of Case Action was sent to Claimant notifying her that she was approved from the date of application, ongoing. See Exhibit 1, pp. 7-8.

At the hearing, Claimant testified that she is ultimately seeking FAP benefits from May 1, 2014, to May 15, 2014, which was the time period it was closed before she reapplied. See Exhibit 1, p. 9. Claimant acknowledged receipt of the contact report and testified that she made a copy of the completed form and mailed it to the Department on March 11, 2014. Claimant provided a copy of the contact report and it was signed on March 11, 2014. See Exhibit A, pp. 1-2. Claimant testified that she never received the Notice of Potential FAP Closure dated April 10, 2014 and stated she has some issues in receiving her DHS correspondence. Also, Claimant testified she spoke to several DHS workers in mid-May 2014 concerning her FAP closure.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective May 1, 2014, in accordance with Department policy. Claimant credibly testified that she sent the Department a completed contact report on March 11, 2014. Claimant's credibility is supported by providing a copy of the contact report she sent to the Department on March 11, 2014. See Exhibit A, pp. 1-2. As such, Claimant completed the necessary forms to determine her ongoing FAP eligibility. See BAM 105, p. 6. Because the Claimant mailed a completed contact report to the Department before April 1, 2014, the Department improperly closed her FAP benefits effective May 1, 2014, in accordance with Department policy. BAM 105, p. 6 and BAM 210, pp. 8-11.

DECISION AND ORDER

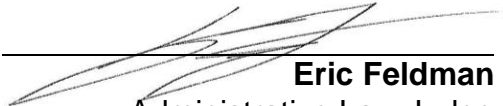
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not

act in accordance with Department policy when it improperly closed Claimant's FAP benefits effective May 1, 2014.

Accordingly, the Department's FAP 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 as of May 1, 2014;
2. Begin recalculating the FAP budget for May 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from May 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/24/2014**

Date Mailed: **6/24/2014**

EJF/cl

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]