

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003196
Issue No.: FOOD ASSISTANCE PROGRAM
Case No.: [REDACTED]
Hearing Date: April 08, 2015
County: MUSKEGON

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 April 8, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly re-process Claimant's October 13, 2014, application for Food Assistance Program (FAP)?

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 January 8, 2015, a Hearing Decision was issued ordering the Department to reprocess Claimant's October 13, 2014, FAP application, issue written notice of the revised eligibility determination, and issue any retroactive benefits Claimant may be eligible to receive, if any.
2. On February 25, 2015, Claimant requested a hearing contesting the Department's failure to comply the Hearing Decision.

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.

A notice of case action must specify the following: the action(s) being taken by the department; the reason(s) for the action; the specific manual item which cites the legal base for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits are continued if a hearing is requested. BAM 220, October 1, 2014, p. 2.

On January 8, 2015, a Hearing Decision was issued ordering the Department to reprocess Claimant's October 13, 2014, FAP application, issue written notice of the revised eligibility determination, and issue any retroactive benefits Claimant may be eligible to receive, if any.

The Department asserted that a new determination was made regarding Claimant's eligibility for FAP for the October 13, 2014, application. Specifically, the Department determined that Claimant had excess income for the FAP program. The Department further asserted that another DHS 1605 Notice of Case Action could not be generated in the Department's computer system because the case was already denied.

The Family Independence Specialist testified that she generated and issued a different type written notice to Claimant just after the January 8, 2015, Hearing Decision was issued. The Family Independence Specialist acknowledged that the Department's computer system does not show any record of that written notice. Accordingly, in response to the Hearing Request, the Family Independence Manager instructed the Family Independence Specialist to issue another written notice to Claimant on March 9, 2015.

Claimant testified she did not receive either the January 2015 or the March 9, 2015, written case action notice from the Department.

Ultimately, the Department did not provide sufficient evidence to establish that it acted in accordance with Department policy when it re-processed Claimant's October 13, 2014, application for FAP. There is no documentary evidence submitted of a written notice of case action being issued to Claimant regarding the revised eligibility determination. There is not even a record of the January 2015 written notice of case action in the Department's computer system. No copy of the March 9, 2015, written notice of case action was included in the hearing exhibits. Further, Claimant testified she never received either the January 2015 or the March 9, 2015, written case action notice from the Department. Accordingly, the evidence is not sufficient to establish that a written case action notice, meeting the requirements of the above cited BAM 220 policy, was issued to Claimant at her correct address.

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 failed to

satisfy its burden of showing that it acted in accordance with Department policy when it re-processed Claimant's October 13, 2014, application for FAP.

DECISION AND ORDER

Accordingly, the Department's decision **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. Re-determine Claimant's eligibility for FAP for the October 13, 2014, application, if not already completed, in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Signed: **4/14/2015**

Date Mailed: **4/14/2015**

CL/hj

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 48909-8139

cc:

