

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-005296
Issue No.: 3001
Case No.: ██████████
Hearing Date: May 07, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

ADMINISTRATIVE LAW JUDGE: Lynn M. 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 7, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Hearing Representative (AHR), ██████████. The Claimant did not appear. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) on the basis that he was ineligible due to his institutional status?

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 May 7, 2014 the Claimant's AR (filing Representative) filed an online application for Food Assistance on his behalf. Exhibit A.
2. The Department alleges the FAP application was approved in error as the Department had previously denied the application on April 4, 2014 due to the Claimant residing in an unlicensed group home. Exhibit 2.
3. The Department alleges that the Claimant currently resides in an unlicensed group home.

4. The Department sent the Claimant a Verification Checklist on March 24, 2014 requesting he provide a copy of April Walton's driver's license, a cost of care letter, consent letter by client or guardian, and if there is a guardian provide guardianship papers, a 501C3 tax exempt status and SSI or RSDI award letter and amounts and a copy of the AFC license. The verification was due on April 3, 2014. Exhibit C.
5. The Department denied and closed the case "due to failure of returning supporting documents. Worker spoke with provider and was also notified that client does not live in a state licensed AFC Home." Exhibit D
6. A Notice of Case Action dated March 26, 2015 was sent to the Claimant closing his Food Assistance because "customer resided in a commercial boarding house and pays for room and board. Per BEM 212 a commercial boarding house is an establishment which provides room and board for compensation." Exhibit E
7. The address where the Claimant resides was previously an Adult Foster Care Home in 2010.
8. The Claimant requested a hearing on April 6, 2015 authorizing AHR Walton to represent him regarding his Food Assistance closure.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Claimant stated in his signed request for hearing and authorization for the owner of the home where he resides to represent him as an AHR, that he pays rent and prepares and buys food on his own. The verifications sought by the Department regarding the Claimant and Claimant's AHR were not the reason for the current closure by Notice of Case Action dated March 26, 2015. Exhibit E. The Department's closure was due to the Claimant living in a commercial boarding home and was not eligible for Food Assistance. Exhibit E. The Claimant did not appear at the hearing and the Claimant's AHR is the owner of the home where the Claimant resides and pays rent. The Claimant's AHR testified that she does not provide meals or other services to the

Claimant and he purchases and prepares his own food. An earlier Notice of Case Action not at issue here closed/denied the case due to failure to provide supporting documents, and a statement that the provider told worker that client does not live in a state licensed FAC Home. The caseworker who allegedly was provided information by the provider was not a witness at the hearing. Exhibit D

The Department provided no proof to establish that the Claimant resided in a boarding establishment as concluded in its March 26, 2015 Notice of Case Action closing the Claimant's FAP case. The Claimant's case was closed due to the Department's finding that the Claimant resided in a commercial boarding home and pays for room and board. Exhibit E.

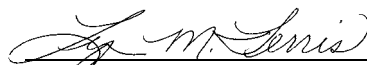
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's Food Assistance case for residing in a commercial boarding facility. This Decision does not address the current application dated May 7, 2015 as it was filed after the current hearing request.

DECISION AND ORDER

Accordingly, the Department's 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. The Department shall reinstate the Claimant's FAP benefits retroactive to May 1, 2015.
2. The Department shall issue a FAP supplement for FAP benefits, if any the Claimant is otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/12/2015**

Date Mailed: **5/12/2015**
LMF / 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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

[REDACTED]

