

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 15-007235
Issue No.: 3001; 3008
Case No.: ██████████
Hearing Date: June 10, 2015
County: WAYNE-DISTRICT 57
(CONNER)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 10, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Family Independence Manager.

ISSUE

Did the Department properly close and/or budget Claimant's Food Assistance Program (FAP) benefits for April 2015?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. For March 2015, Claimant received ██████████ in FAP benefits. See Exhibit A, p. 4.
2. For April 2015, Claimant's FAP benefits were closed. See Exhibit A, p. 4.
3. The Department acknowledged that it failed to generate Claimant a Notice of Case Action (case action) informing her that her FAP benefits closed for April 2015.
4. For May 2015, Claimant received ██████████ (supplement) in FAP benefits. See Exhibit A, p. 4.
5. On May 4, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action (case action). BAM 220 (October 2014 and April 2015), p. 1. In this case, the Department would have sent a negative action, which is a DHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. A 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.
- The conditions under which benefits are continued if a hearing is requested.

BAM 220, p. 2.

Also, timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 4. The action is pending to provide the client a chance to react to the proposed action. BAM 220, p. 4.

In this case, Claimant's FAP benefits closed from April 1, 2015 to April 30, 2015. See Exhibit A, p. 4. The Department acknowledged that it failed to generate Claimant a case action informing her that her FAP benefits closed for April 2015. Because the Department failed to provide Claimant notice of her case closure, it improperly closed her FAP benefits for April 2015 in accordance with Department policy. See BAM 220, pp. 1-2.

Additionally, it appeared that Claimant's FAP benefits closed due to excess income. Claimant's child receives approximately \$747 in unearned income, which is based on Supplemental Security Income (SSI) (approximately \$733) plus the State SSI Payments (SSP) issued quarterly (\$14 monthly average). See BEM 503 (July 2014), pp. 32-34 (The Department counts the gross amount of current SSA-issued SSI as unearned income. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department counts the corresponding monthly SSP benefit amount as unearned income). However, the Department testified that it was budgeting approximately \$1,402 for the child's unearned income. Because the Department improperly budgeted the child's unearned income, it appears that this resulted in the closure of her FAP benefits. The Department acknowledged that it improperly calculated Claimant's FAP budget in accordance with Department policy. See BEM 503, pp. 32-34 and BEM 505 (July 2014), pp. 1-14 (prospective budgeting/income change processing).

DECISION AND ORDER

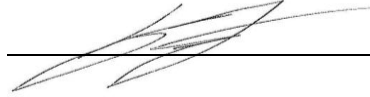
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when (i) it closed Claimant's FAP benefits effective April 1, 2015 to April 30, 2015; and (ii) improperly calculated Claimant's FAP budget for April 1, 2015 to April 30, 2015.

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 for April 1, 2015 to April 30, 2015;
2. Begin recalculating the FAP budget for April 1, 2015 to April 30, 2015, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from April 1, 2015 to April 30, 2015; and

4. Notify Claimant of its FAP decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/11/2015**

Date Mailed: **6/11/2015**

EJF/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 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]