

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

**IN THE MATTER OF:**

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

Reg. No.: 15-007281  
Issue No.: 3001  
Case No.: ██████████  
Hearing Date: June 10, 2015  
County: WAYNE-DISTRICT 41  
(FORT WAYNE)

**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 three-way telephone hearing was held on June 10, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. There were no participants on behalf of the Department of Health and Human Services (Department or DHHS).

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective May 1, 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. Claimant was an ongoing recipient of FAP benefits.
2. On April 28, 2015, Claimant testified that the Department sent him a Notice of Case Action informing him that his FAP benefits would close effective May 1, 2015, ongoing, based on a failure to verify requested information.
3. Claimant's Eligibility Summary confirmed that he did not receive FAP benefits effective May 1, 2015. See Exhibit A, p. 5.
4. 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.

### **Preliminary matters**

First, the Michigan Administrative Hearing System (MAHS) attempted to contact the Department in order to participate in the hearing, but to no avail. As such, the administrative hearing proceeded without the Department present.

Second, Claimant also testified that he disputed the amount of his FAP allotment. However, Claimant's hearing request fails to dispute the amount of his benefits. See Exhibit A, pp. 2-3. Therefore, the undersigned lacks the jurisdiction to address Claimant's FAP allotment. See BAM 600 (April 2015), pp. 1-6.

Third, on May 12, 2015, Claimant voluntarily requested closure of his FAP case in writing. See Exhibit A, p. 4. Again, though, this action occurred after Claimant's hearing request in which the undersigned lacks the jurisdiction to address. See BAM 600, pp. 1-6. It should be noted that policy states, for FAP only, a notice of case action is not sent when the group voluntarily requests closure in writing. See BAM 220 (April 2015), pp. 4-5. The action must take effect no later than the month after the change. See BAM 220, pp. 4 and 18 (processing of case closure). As such, the undersigned will only address Claimant's FAP case closure effective May 1, 2015.

### **FAP case closure**

On April 28, 2015, Claimant testified that the Department sent him a Notice of Case Action informing him that his FAP benefits would close effective May 1, 2015, ongoing, based on a failure to verify requested information. Claimant testified he spoke to his DHHS caseworker to inquiry about the case closure and was notified that he failed to report that he was homeless. However, Claimant testified that he did inform his DHHS caseworker that he was homeless.

Additionally, the Department's hearing summary indicated that Claimant failed to provide income verifications with this redetermination, which is another possible reason for his case closure. See Exhibit A, p. 1. Claimant, though, indicated in his hearing request that he submitted the verifications timely. See Exhibit A, p. 3.

BAM 130 outlines the Department policy regarding verifications requests. BAM 130 (October 2014), pp. 1-9. Specifically, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p. 6. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

BAM 210 outlines the Department policy regarding the redetermination process. BAM 210 (April 2015), pp. 1-20. A complete redetermination is required at least every 12 months. BAM 210, p. 1. A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14.

Additionally, the local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 35. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHHS policy was appropriately applied. BAM 600, p. 38.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP benefits effective May 1, 2015. See BAM 600, pp. 35-58. The Department failed to be present at the hearing in order to provide testimony and/or evidence as to why it closed Claimant's FAP benefits. Claimant's asserts that he provided all verifications to the Department and the undersigned finds the Claimant credible as Department failed to be present at the hearing to rebut his testimony. In summary, the Department failed its burden to show why it closed Claimant's FAP benefits and the Department will reinstate Claimant's FAP case effective May 1, 2015.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP benefits effective May 1, 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 as of May 1, 2015;
2. Begin recalculating the FAP budget effective May 1, 2015, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from May 1, 2015; and
4. Notify Claimant of its decision.



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

Date Signed: **6/12/2015**

Date Mailed: **6/12/2015**

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]