

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-013510
Issue No.: 3002, 3008
Case No.: [REDACTED]
Hearing Date: September 29, 2015
County: SAGINAW

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on September 29, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED], Hearing Facilitator, represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Food Assistance Program (FAP) recipient.
2. On June 8, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of a loss of employment by June 28, 2015.
3. On July 15, 2015, the Department received verification of the loss of employment and a change of housing expenses.
4. On July 28, 2015, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits as of August 1, 2015.
5. On August 6, 2015, the Department notified the Claimant that she was eligible for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits as of August 1, 2014, based on \$ [REDACTED] housing expenses.

6. On August 6, 2015, the Department received the Claimant's request for a hearing protesting her Food Assistance Program (FAP) benefits.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (April 1, 2015), p 5.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (October 1, 2014), pp 1-9.

Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be rein-stated for any of the following reasons:

- Closed in error.
- Closed-correct information not entered.
- Timely hearing request.
- Redetermination packet not logged in.
- Hearing decision ordered reinstatement.
- Complied with program requirements before negative action date.

- DHS-1046 manually sent and due date is after the last day of the 6th month.
- Court ordered reinstatement. Department of Health and Human Services Bridges Administrative Manual (BAM) 205 (July 1, 2014), p 1.

The Department will act on a change that affects FAP benefits and reported by means other than a tape match within 10 days of becoming aware of the change. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (October 1, 2015), p 7.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), p 14.

In this case, the Claimant was an ongoing FAP recipient when she reported a loss of employment and new employment starting. On June 8, 2014, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of the loss of employment. The Claimant was unable to provide verification of the loss of employment before the due date, but she was able to provide it before the negative action date. Therefore, the Department reinstated the Claimant's FAP benefits as of August 1, 2014, as instructed by BAM 205.

On July 15, 2015, the Department received the Claimant's verification of monthly shelter expenses. The Department reinstated the Claimant's FAP benefits as of August 1, 2015, but failed to process the verified change of housing expenses by August 1, 2015.

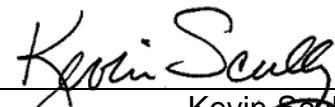
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined the Claimant's eligibility for Food Assistance Program (FAP) as of August 1, 2015.

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. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of August 1, 2015.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/30/2015**

Date Mailed: **9/30/2015**

KS ■

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:

