

**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.: 15-014655
Issue No.: 3007 6000
Case No.: ██████████
Hearing Date: September 30, 2015
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 30, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Mary Campbell, Claimant's grandmother, testified on behalf of Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ specialist.

ISSUE

The issue is whether MDHHS properly terminated Claimant's Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. On an unspecified date, MDHHS stopped Claimant's FAP eligibility, effective January 2015.
3. MDHHS did not mail to Claimant written notice of the FAP benefit closure.
4. On August 17, 2015, Claimant requested a hearing concerning FAP and Child Development and Care (CDC) eligibility.

CONCLUSIONS OF LAW

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. MDHHS administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute CDC eligibility. Claimant's testimony conceded she had no ongoing CDC dispute. Claimant's hearing request will be dismissed concerning CDC eligibility.

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part to dispute FAP eligibility. Claimant's testimony alleged that her FAP eligibility was improperly terminated, beginning February 2015. MDHHS contended that Claimant's hearing request was not timely submitted.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (1/2015), p. 6. The request must be received in the local office within the 90 days. *Id.*

Claimant submitted her hearing request to MDHHS on August 18, 2015, to dispute a termination of FAP benefits. Claimant testified that she did not receive notice of the closure. During the hearing, MDHHS was given two opportunities to search for and present a written notice of closure mailed to Claimant. MDHHS testimony conceded that no closure notice was sent to Claimant.

A written notice is a requirement to triggering the start of the 90 day timeframe to request a hearing. Without written notice, Claimant's hearing request cannot be untimely. It is found that Claimant timely requested a hearing to dispute a termination of FAP benefits.

Claimant's testimony alleged that February 2015 was the first month she did not receive FAP benefits, following the disputed closure. Claimant presented no documents to support her claim.

MDHHS presented a Benefit Summary Inquiry (Exhibit 1) of Claimant's FAP issuance history. It should be noted that the summary included one of two case numbers for Claimant. The summary indicated that Claimant received FAP benefits through December 2014. The summary also showed a partial issuance for January 2015 (for the period of January 28, 2015 through the end of the month), and a full FAP benefit issuance for February 2015. The document is indicative of a FAP closure effective January 2015, and a subsequent application dated January 28, 2015, that was approved only through February 2015.

The analysis will consider whether Claimant's FAP eligibility was properly terminated, effective January 2015. MDHHS alleged that Claimant's FAP eligibility ended due to a failure by Claimant to return "new hire" information.

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (July 2014), p. 1. New Hires is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. *Id.* New Hires information is used to determine current income sources for active DHS clients. *Id.*

The New Hire database is established from W4 tax records (or other new hire reporting formats) submitted by employers to the Michigan New Hire Operations Center. *Id.* Michigan employers are required to report all new employees within 20 days of the date of hire. *Id.* The New Hires process matches the Social Security number (SSN) for all active recipients to the database. *Id.* If a SSN match is found on Bridges and the New Hires database, a New Hires match is created if there is no earned income reflected in Bridges. *Id.*

[When a New Hire hit is made, DHS specialists are to] contact the client immediately if the employment has not been previously reported. *Id.* The specialist is then to request verification by generating a DHS-4635, New Hire Notice, from Bridges. *Id.* When a DHS-4635 is requested, Bridges (the DHS database) automatically gives the client 10 calendar days to provide verification from the date the forms were requested. *Id.*, p. 2. If verifications are not returned by the 10th day, the case will close for a minimum of 30 days after appropriate actions are taken in Bridges, unless the client returns verifications. *Id.*

For purposes of this decision, it will be presumed that MDHHS mailed Claimant a New Hire Notice and that Claimant failed to return the notice. MDHHS has procedural requirements before a case can be closed for a failure to return a New Hire Notice.

There are two types of written notice: adequate and timely. BAM 220 (October 2014), p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). *Id.* A timely notice is mailed at least 11 days before the

intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. *Id.*, p. 4.

[For all programs,] timely notice is given for a negative action unless policy specifies adequate notice or no notice. *Id.*, p. 4. Closure due to an unreturned New Hire Notice is not an exception to the general rule of providing timely notice.

As noted above, MDHHS was given two different opportunities during the hearing to verify if written notice was mailed to Claimant. As noted above, MDHHS conceded that written notice was not provided. Without proper written notice, the closure of FAP benefits, effective January 2015, must be found to be improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Claimant has no CDC dispute. Claimant's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Claimant's FAP eligibility. It is ordered that MDHHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective January 2015, subject to the finding that MDHHS failed to provide Claimant with improper notice of closure; and
- (2) initiate a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/1/2015**

Date Mailed: **10/1/2015**

CG/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]
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