

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

IN THE MATTER OF:



MAHS Reg. No.: 15-014678
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: November 03, 2015
County: MONTCALM

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following The 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, an in -person hearing was held on November 3, 2015, from [REDACTED]. The Claimant, [REDACTED], appeared and testified. The Department was represented by Lead Worker, [REDACTED] and General Services Program Manager, [REDACTED].

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) case for failure to provide the required verification?

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 recipient of monthly FAP benefits in the amount of [REDACTED].
2. On April 23, 2015, the Claimant completed an online change report to add her father to her FAP group.
3. On June 18, 2015, the Department sent the Claimant a DHS-3503, Verification Checklist and the Claimant's proofs were due on June 29, 2015.
4. On July 14, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her FAP case would close on August 1, 2015 due to her failure to submit the required verification.

5. Though the Departments Lead Worker testified that the Claimant's case did not close on August 1, 2015, the Claimant has not received any FAP benefits since before August 1, 2015.
6. On August 18, 2015 the Department discovered that the Claimant had indeed submitted the required proofs in a timely manner. The Department indicates that it reinstated the Claimant's case, yet the Claimant has not received FAP benefits since before August 1, 2015. The Department has issued the Claimant another DHS-3503, Verification Checklist requesting a detailed list of farm equipment.
7. On August 10, 2015, the Claimant made a verbal request for hearing protesting the closure of her case.

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 Administrative Law Judge is concluding that the Claimant's case did in fact close on August 1, 2015. The Departments testimony that they have reinstated the Claimant's case is not persuasive, because the Claimant has not received benefits since before August 1, 2015. That constitutes a case closure, because the Claimant is not continuing to receive her benefits while her change report is being processed.

During the hearing, the Department testified that it had concluded that the Claimant failed to submit required verification in error because the verification had been timely submitted.

Bridges Assistance Manual (BAM) 130 (2015) p. 5 provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Claimant indicates a refusal to provide a verification, or when the time period given has elapsed and the Claimant has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the Claimant had submitted the verification timely to the Department. As such, the Administrative Law Judge concludes that the Department did not act in

accordance with policy when taking action to close the Claimant's FAP case for failure to submit the required verification.

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 took action to close the Claimant's FAP case.

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. Redetermine the Claimant's eligibility for FAP back to August 1, 2015, and
2. Issue the Claimant any supplement she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **11/4/2015**

SEH/sw

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:

