

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

IN THE MATTER OF:



MAHS Reg. No.: 15-017626
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: November 12, 2015
County: WASHTENAW (DISTRICT 20)

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, a telephone hearing was held on November 12, 2015, from Lansing, Michigan. The Claimant, [REDACTED] appeared and testified. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor, [REDACTED] and Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly take action to close the Claimant's Food Assistance Program (FAP) case to then add him to his child's mother's case?

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 FAP benefits.
2. On July 31, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that he was placed on his child's mother's case.
3. The evidence in this case is not consistent as to when the Claimant's case actually closed. Department's exhibit B indicates that it closed on August 1, 2015 and Department exhibit C indicates that it closed on September 1, 2015
4. On September 4, 2015, the Department received the Claimant's written hearing request protesting the closure of his FAP case in contesting the Department's assertion that he moved in with his child's mother.

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 Claimant testified that he never lived with his child's mother, but rather used that address for his Social Security disability application. The Department personnel present at the hearing relied on Department's exhibit a, which is an employee tasks/reminders computer screen print out which indicates that the office of Child support reported that the noncustodial parent had joined the household and to initiate a member add for the Claimant. The Department personnel present at the hearing could not testify who it was at the Office of Child Support who concluded that there was this change in household composition; much less testify as to what that conclusion is based upon.

Policy provides that, before determining eligibility, the Department's worker give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. Bridges Administrative Manual (BAM) 130 (2015) p. 8. In this case, this Administrative Law Judge concludes that the Claimant should have been afforded an opportunity to verify his address before the closure of his case.

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. Re-determine the Claimant's eligibility for FAP back to the date that the Claimant's case actually closed, and
2. Issue the Claimant any supplement the Claimant may thereafter be due.

Susanne E. Harris

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

Date Mailed: **11/16/2015**

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:

