

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

IN THE MATTER OF:



MAHS Reg. No.: 15-019714
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: December 09, 2015
County: Wayne (55) Hamtramck

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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 December 9, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

1. Did the Department properly close the Petitioner's Food Assistance Program (FAP) case?
2. Did the Petitioner timely request a hearing regarding the closure of her 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 Petitioner's FAP benefits ended at the end of March 2015.
2. The Petitioner had a redetermination in February 2015 regarding her FAP benefits. At the time, the Petitioner was a university student. The Petitioner completed the redetermination.
3. The Department issued a Notice of Case Action on February 27, 2015, which was sent to the Petitioner's correct address. The Notice increased the

Petitioner's FAP benefits for the period February 20, 2015, through March 31, 2015, and also issued a \$ [REDACTED] supplement to the Petitioner. Exhibit 1.

4. The Petitioner requested a hearing on October 21, 2015, protesting that her FAP benefits ended.

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 Petitioner requested a hearing on October 21, 2015, protesting the fact that she did not receive FAP benefits after April 1, 2015, and received no notice with regard to why her FAP benefits closed. The Notice of Case Action issued February 27, 2015, did not close the Petitioner's FAP case. The Notice supplemented her for an underpayment and increased the benefits to \$ [REDACTED] for the period February 1, 2015, through March 31, 2015. Exhibit 1. At the hearing, the Department did not present any information to indicate that there was a no problem with the Petitioner's completion of her February 2015 redetermination. The Notice the Department presented dated February 27, 2015, did not indicate that the case closed. The eligibility summary indicated that the Petitioner's case closed as of April 1, 2015. There was no Notice of Case Action presented which was sent to the Petitioner that advised her with regard to the Department's closure of her FAP case. BAM 220 provides with respect to providing notice:

Negative Actions

A **negative action** is identified in Bridges with notice reason(s) in eligibility results. Negative actions include:

- Decrease in program benefits, including case or EDG closure.
- Special living arrangement client pay increase.
- Inactivation of an eligible group member.

- Inactivation resulting in a FAP benefit increase is **not** an FAP negative action. BAM 220 (October 1, 2015), p. 10-11.

In this case, none of the above conditions were noted in the only notice sent to the Petitioner. Exhibit 1. The Notice the Department sent advised the Petitioner that it increased FAP benefits and supplemented benefits; it did not close the case. Because no evidence was presented in this case that a Notice was sent to the Petitioner advising her of the closing of her FAP case, the Petitioner's request for hearing in this case is timely as the Department presented no evidence that it processed a closure of the FAP case. In addition, the Department did not act in accordance with BAM 220 when it closed the Petitioner's FAP case without a Notice of Case Action.

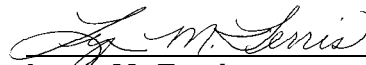
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it stopped the Petitioner's FAP benefits without a Notice of case action informing the Petitioner of its action closing her FAP benefits and the reasons for closure.

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. The Department shall reinstate the Petitioner's FAP case as of April 1, 2015.
2. The Department shall supplement the Petitioner for FAP benefits, if any, the Petitioner was otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **12/15/2015**

LMF/jaf

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:

