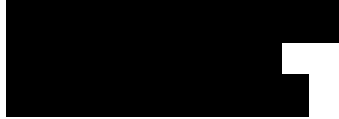


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-000420
Issue No.: 3007
Case No.:
Hearing Date: February 10, 2015
County: JACKSON

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 February 10, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist (ES) Boobyer and Family Independence Manager (FIM)

ISSUE

Did the Department properly notice Claimant of her Food Assistance Program eligibility on January 5, 2015?

FINDINGS OF FACT

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

1. On October 8, 2014, Claimant submitted a hearing request.
2. On October 29, 2014, Claimant was sent an Application Eligibility Notice (DHS-1150) which stated her Food Assistance Program benefits would be \$ per month from 11/1/2014 – 8/31/2015.
3. On November 18, 2014, an Administrative Law Hearing was conducted regarding Claimant's October 8, 2014, hearing request. The issue in that hearing was whether the Department had properly determined Claimant's Food Assistance Program eligibility on September 4, 2014.
4. On November 21, 2014, Claimant submitted a hearing request.

5. On November 24, 2014, a Hearing Decision and Order was issued upholding the Department's September 4, 2014 Food Assistance Program eligibility determination.
6. December 5, 2014, Michigan Administrative Hearing System denied Claimant's November 21, 2014, hearing request.
7. On December 26, 2014, the Department received a Verification of Employment (DHS-38) which indicated Claimant's employment ended on December 22, 2014.
8. On January 5, 2015, Claimant was sent an Application Eligibility Notice (DHS-1150) which stated she would receive \$ [REDACTED] of Food Assistance Program benefits from 2/1/2015 – 2/28/2015.
9. On January 8, 2015, Claimant submitted a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Claimant's January 8, 2015 hearing request disputes the amount of her Food Assistance Program benefits for November 2014, December 2014, January 2015, and March 2015 ongoing. Bridges Administration Manual (BAM) 600 (2014) at page 6, directs that a request for hearing must be submitted within 90 calendar days of the date of the written notice of case action being disputed. In this case the October 29, 2014, Application Eligibility Notice (DHS-1150) provided her notice that her Food Assistance Program benefits would increase from \$16 per month to \$80 per month. BAM 600, pages 4 & 5 direct that:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

For **FAP only**, the current level of benefits or denial of expedited service.

The October 29, 2014, Application Eligibility Notice (DHS-1150) was that of an increase of benefits. Therefore, even though Claimant's January 8, 2015, hearing request was submitted within 90 calendar days, the Department's action noticed on October 29, 2014 is not a hearable issue. The FAP specific hearable issue is designed to provide a review of FAP benefits if requested outside the 90 calendar day time limit. Because the January 8, 2015, hearing request was submitted within 90 calendar days of two different written notices, it is not properly considered a request for review of the current level of FAP benefits.

The January 5, 2015, Application Eligibility Notice (DHS-1150) stated Claimant would receive \$262 of Food Assistance Program benefits from 2/1/2015 – 2/28/2015. That is an increase from the \$80 per month Claimant was receiving in November 2014 - January 2015. As explained above, an increase of benefits is not a hearable issue. Also, because the January 8, 2015, hearing request was submitted within 90 calendar days of two different written notices, it is not properly considered a request for review of the current level of FAP benefits.

However, there is an anomaly with the January 5, 2015, Application Eligibility Notice (DHS-1150) sent to Claimant. The October 29, 2014, Application Eligibility Notice (DHS-1150) sent to Claimant indicates her eligibility certification period runs until August 31, 2015. However, the January 5, 2015, Application Eligibility Notice (DHS-1150) does not indicate a Food Assistance Program eligibility determination beyond February 28, 2015. Claimant raised this issue in her January 8, 2015, hearing request. While there is no evidence that the Department terminated Claimant's Food Assistance Program benefits on February 28, 2015, BAM 600 at page 1, under Notice Requirements, requires "written notice of all case actions affecting eligibility or amount of benefits." Bridges Administration Manual (BAM) 220 Case Actions (2014) at page 2, states that adequate notice is required for an increase in benefits. BAM 220 at page 6 under Standards of Promptness requires that reported changes (other than a tape match) be acted on within 10 days of becoming aware of the change. The Department did re-determined Claimant's FAP eligibility within 10 days of receiving the Verification of Employment (DHS-38) on December 26, 2014. However, the required action was incomplete because it did not provide Claimant notice of her Food Assistance Program eligibility after February 28, 2015. As cited above, BAM 600 provides for granting of a hearing for delay of any action beyond standards of promptness. Claimant's issue regarding her FAP eligibility after February 28, 2015, is a hearable issue.

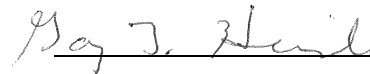
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it provided notice to Claimant of her Food Assistance Program eligibility on January 5, 2015 because there was no eligibility determination provided after February 28, 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. Issue Claimant written notice of her Food Assistance Program eligibility from March 1, 2015 ongoing.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/25/2015**

Date Mailed: **2/25/2015**

GFH/hj

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:

