

**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.: 15-002132
Issue No.: 3003
Case No.: ██████████
Hearing Date: April 13, 2015
County: Wayne-District 18 (Taylor)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 April 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) 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. Claimant was an ongoing recipient of FAP benefits.
2. On December 1, 2014, the Department sent Claimant a Semi-Annual Contact Report (semi-annual) that was to be completed and returned to the Department by January 1, 2015. The semi-annual informed Claimant that a failure to return the form will result in a FAP case closure effective January 31, 2015. (Exhibit A)
3. On January 10, 2015, the Department sent Claimant a Notice of Potential FAP Closure informing her that effective January 31, 2015, her FAP case will be closed because she had not returned the semi-annual or required information. (Exhibit B)
4. On February 4, 2015, Claimant submitted a hearing request disputing the Department's actions.

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.

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (July 2014), p 1. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p.1. The Department will send a DHS 1046, Semi-Annual Contact Report the beginning of the fifth month for cases assigned a 12 month benefits period. BAM 210, p.8. A report is considered complete when all of the sections are answered completely and all of the requested verifications are returned. BAM 210, p.9.

FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p 2. If the DHS-1046 is not logged in by the 10th day of the sixth month, Bridges will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month, or the case will close. If the client fails to return a complete DHS-1046 by the last day of the sixth month, Bridges will automatically close the case, without sending a Notice of Case Action. BAM 210, p.11.

In this case, the Department testified that because it did not receive Claimant's completed semi-annual by the January 1, 2015, due date, it sent Claimant a Notice of Potential FAP Closure on January 10, 2015, informing her that she had until January 31, 2015, to complete the semi-annual process, submit the required information or her FAP case would close. (Exhibit B);BAM 210, p. 10. The Department stated that Claimant's FAP case automatically closed effective January 31, 2015, because a completed semi-annual was not received.

Although Claimant stated that she was not sure if she received the semi-annual form to be completed and returned to the Department, the proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The semi-annual was mailed to Claimant

at her confirmed mailing address and there was no evidence presented that Claimant reported having problems receiving mail, as Claimant confirmed that she received the Notice of Potential FAP Closure. Therefore, Claimant has not presented sufficient evidence to rebut the presumption that she received the semi-annual and was notified that it must be completed prior to January 31, 2015.

Claimant testified that on November 24, 2014, she completed what she thought was a redetermination for her FAP case, however, the Department later informed her that the redetermination was concerning her medical assistance benefits. Claimant also testified that she received a Notice of Case Action from the Department on November 12, 2014, informing her that her FAP benefits would be increased from December 1, 2014, to July 31, 2015. In response, the Department stated that the recalculation of Claimant's FAP benefits in November 2014 was likely in connection to an application for State Emergency Relief that was submitted by Claimant on November 5, 2014. (Exhibit C).

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 because the Department did not receive Claimant's completed semi-annual, the Department acted in accordance with Department policy when it closed Claimant's FAP case on the basis that she failed to complete the semi-annual and return required information. Claimant was informed that she could submit a new application for FAP benefits at any time and have her eligibility determined.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health & Human Services

Date Signed: **4/17/2015**

Date Mailed: **4/17/2015**

ZB / tlf

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:

[REDACTED]