

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004326
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: April 29, 2015
County: Oakland-District 2

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 29, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Health and Human Services (Department) included Assistance Payment Worker [REDACTED] and AP Supervisor [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program beginning March 1, 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. Claimant was an ongoing recipient of Food Assistance Program benefits. Her Food Assistance Program benefits were due for review via a Semi-Annual Contact Report (DHS-1046).
2. On February 10, 2015, Claimant was sent a Notice of Potential Food Assistance (FAP) Closure (DHS-1046A).
3. On February 13, 2015, Claimant submitted a hearing request.
4. On the date of this hearing, Claimant's Food Assistance Program was pending in BRIDGES for benefits beginning March 1, 2015.

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.

During this hearing the Department representatives asserted that closure of Claimant's Food Assistance Program was correct because she had not submitted all the pages of her Semi-Annual Contact Report (DHS-1046). AP [REDACTED] also testified that Claimant had finally submitted the rest of the Semi-Annual Contact Report (DHS-1046) and her Food Assistance Program had been reinstated in BRIDGES and was pending for income verification.

During this hearing Claimant asserted that she had submitted all the pages of the Semi-Annual Contact Report (DHS-1046). Neither party presented consistent, specific evidence on when all the pages of the Semi-Annual Contact Report (DHS-1046) were actually received by the Department.

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 closed Claimant's Food Assistance Program beginning March 1, 2015. In fact the evidence submitted is that Claimant's Food Assistance Program was still pending approval for benefits as of March 1, 2015.

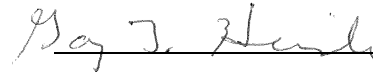
DECISION AND ORDER

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. Re-determine Claimant's Food Assistance Program eligibility from March 1, 2015 ongoing.

2. Issue Claimant current notice of the Food Assistance Program eligibility determination.



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

Date Signed: **5/5/2015**

Date Mailed: **5/5/2015**

GH/las

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:

