

**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.: 15-005294
Issue No.: 3001
Case No.: ██████████
Hearing Date: May 07, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 May 7, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Hearing Representative, ██████████. The Claimant did not appear. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant's Food Assistance 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. On August 11, 2014 the Claimant, through her filing representative ██████████, applied for FAP benefits online.
2. The Claimant resides at a home where 5 other adults live. The home is owned by the Claimant's AHR and was formerly a licensed Adult Foster Care Facility in 2011.
3. A verification checklist was sent to the Claimant on August 20, 2014 requesting verification of home rent. Exhibit F.
4. The Claimant's AHR sent a response to the Department's verification request on September 2, 2014 on ██████████ business stationery. In the letter

signed by [REDACTED], it states: [REDACTED] monthly cost of care \$925 this includes: daily meal preparation for Consumer..." Exhibit C.

5. On March 26, 2015 the Department sent a Notice of Case Action closing the Claimant's case due to living in an unlicensed institutional facility.
6. The Department had originally approved the application in error. In a Notice of Case Action issued September 4, 2014 the Department calculated the FAP benefits and included in the calculation the cost of care as a Medical Expense not as rent based upon the verification response provided. Exhibits B and C.
7. The Claimant requested a hearing on April 6, 2015 which stated she pays rent and buys her own food but cannot drive, and authorized [REDACTED] as her AHR.

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 Department closed the Claimant's Food Assistance case when it determined that the original approval was in error. The Department based the closure upon the verification it received which caused the Department to determine that the Claimant was residing in an institutional living facility based upon a verification regarding rent amount which indicated that the address where Claimant lived provided daily care including meal preparation. Exhibit C

An institution is defined as an establishment that furnishes food, shelter and some treatment or services to more than three people unrelated to the proprietor. BEM 265 (October 2014), p 1. A person is a resident of an institution when the institution provides its residents a majority of their meals as part of its normal services. Residents of institutions are not eligible for FAP and can only qualify for FAP if the facility is either (i) authorized by FNS to accept FAP benefits or (ii) an eligible group living facility as defined in BEM 615 (July 1, 2014) BEM 265, p. 2; BEM 212 (July 2014), p. 8. The Department requires that most eligible group living facilities be licensed. See BEM 615 (July 2014).

At the hearing the Claimant's AHR testified that the verification she submitted on behalf of the Claimant was submitted by her on the [REDACTED] stationery and was submitted in error. The Claimant's AHR also testified that the residents residing in the home were not provided meals and that the home was no longer operated as an adult foster care facility. Previously, the Claimant's AHR had operated the residence as an AFC facility but had not done so since 2011. The Claimant's AHR also testified that the Claimant cooks and prepares her own meals.

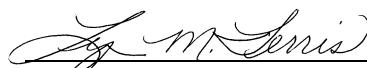
The Claimant's hearing request authorizing [REDACTED] to act as her AHR indicates that Claimant purchases and prepares her own meals. At the time of the application however, and based upon the shelter verification received by the Department, the Department reasonably concluded in its current review and closure of the Claimant's case that the Claimant was a resident of an institution and ineligible for FAP benefits, as there was no evidence presented that the Claimant's residence was an eligible group living facility, or that she did not reside in a commercial boarding house. The statement by [REDACTED] on behalf of another alleged resident, not the Claimant, does not serve to establish that this Claimant was not residing in an ineligible institution or in a boarding house. Exhibit E.

Ultimately it is determined that Claimant's AHR did not provide any evidence to counter the information provided on the shelter verification filed by her other than to say it was submitted on the letterhead of her other business in error and her testimony that the cost of the Claimant's rent was \$925. Exhibit F and C. BEM 615 BEM 212 (July 2014)

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 acted in accordance with Department policy when it closed the Claimant's FAP case.

DECISION AND ORDER

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



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **5/12/2015**

Date Mailed: **5/12/2015**

LMF / cl

CC: