

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006602
Issue No.: 2000,3001
Case No.: [REDACTED]
Hearing Date: June 10, 2015
County: Washtenaw (20)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 June 10, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant, and [REDACTED], wife. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly determine Claimant's eligibility for Food Assistance Program (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. Claimant applied for FAP in October 2014.
2. Around January 2015, Claimant and his wife were incorrectly put back on Claimant's wife's mother's FAP case.
3. On January 16, 2015, Claimant reapplied for FAP, as advised by the Department.

4. On April 23, 2015, Claimant filed a hearing request contesting the Department's action¹.
5. On April 28, 2015, a Benefit Notice was issued to Claimant stating the FAP case would close effective February 28, 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.

In this case, Claimant contests Department actions regarding FAP benefits since an October 2014 application was filed.

The Family Independence Manager acknowledged that there have been problems with Claimant's FAP case since October 2014. For example, the testimony of the parties indicated Claimant and his wife were incorrectly added to Claimant's wife's mother's FAP case. The testimony further indicated the Department has told Claimant and his wife they would fix error(s) with this case, but the problem(s) have not been fixed. Insufficient information was provided for this ALJ to review the FAP determinations since the October 2014 FAP application. For example, the Department was unable to state when a written notice of case action from the October 2014 application was issued to Claimant. Similarly, there is no documentation of written case action notice being issued to Claimant for any determinations from the January 16, 2015, FAP application until the April 28, 2015, Benefit Notice was issued to Claimant stating the FAP case would close effective February 28, 2015. The Family Independence Manager agreed that Claimant's eligibility for FAP should be re-determined back to October 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 failed to

¹ On the April 23, 2015, hearing request, Claimant and his wife indicated they were also contesting the Department's action regarding Medical Assistance (MA). During the June 10 2015, telephone hearing proceedings, it was confirmed that the MA issue has been resolved and Claimant and his wife withdrew the MA portion of this appeal. Accordingly, the MA portion of this appeal is DISMISSED.

satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's FAP eligibility.

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 eligibility for FAP retroactive October 2014 in accordance with Department policy.
2. Issue written notice of the determination(s) in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/15/2015**

Date Mailed: **6/15/2015**

CL / 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:

