

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-007895
Issue No.: 3002
Case No.: ██████████
Hearing Date: June 18, 2015
County: Wayne-District 76

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, Hearings Facilitator, ██████████ ██████████, Assistance Payment Worker, and ██████████ ██████████, Regulation Agent with the Office of Inspector General.

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. An Office of Inspector General (OIG) FEE investigation was conducted concerning Claimant's FAP benefits. (Exhibit B)
3. On April 28, 2015, the Department sent Claimant a Notice of Case Action informing her that effective June 1, 2015, her FAP case would be closed on the basis that she failed to verify or allow the Department to verify information necessary to determine eligibility for FAP. (Exhibit A)
4. On May 18, 2015, Claimant submitted a hearing request, disputing the Department's actions.

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.

Claimant requested a hearing disputing the Department's actions with respect to the closure of her FAP case and in connection with a Notice of Case Action dated April 28, 2015. (Exhibit A). Although there was some testimony and evidence presented at the hearing concerning an intentional program violation repayment agreement and an intentional program violation disqualification agreement that was signed by Claimant, Claimant confirmed that she was not disputing the Department's actions with respect to the repayment agreement or the disqualification that was imposed.

In this case, the Department testified that a FEE investigation was initiated with respect to Claimant's FAP benefits due to her questionable residence and group composition. The OIG agent present for the hearing testified that she made a visit to the address that Claimant reported as her residence ([REDACTED]). The OIG agent stated that she was unable to locate the home and the FEE investigation report indicates that several homes on the block did not have addresses posted. The report also indicates that there were several fire damaged, abandoned homes and open lots. (Exhibit B, at pp. 1-2). The agent stated that she was able to locate a [REDACTED] and that logically, Claimant's home should have been located across the street but it was not there. The agent asserted that the address provided by Claimant was the address of a vacant lot and stated that she spoke with neighbors during the visit to the address.

In support of its contention that the address provided by Claimant was a vacant lot, the Department presented photos taken of the area by the OIG agent, as well as property tax information showing that the tax payer on the property was the [REDACTED] [REDACTED]. (Exhibit B). The Department also presented a print out from [REDACTED] showing the property information for [REDACTED]. A review of the document indicates that the address is a 704 sq. ft., single family home, with a detached garage and one bathroom. (Exhibit B). When questioned about this document, the Department and the OIG agent maintained that there was no home in that area when the visit took place; while Claimant asserted that there was an empty lot next to her home. The documentary evidence presented by the Department was conflicting.

The Department testified that based on the OIG agent's recommendation, Claimant's FAP case was closed and Notice of Case Action was sent on April 28, 2015. (Exhibit A). The Department testified that Claimant's FAP case was closed because the Department was unable to locate Claimant's household and whereabouts. A review of the Notice of Case Action establishes that the reason for intended action is that Claimant failed to verify or allow the Department to verify information necessary to determine eligibility for FAP benefits. (Exhibit A).

The Department confirmed that it did not send Claimant a verification checklist instructing her to submit proof of her residence or giving her an opportunity to resolve the discrepancy between the information that was available. BAM 130 (October 2014), pp. 1-6. The Department also stated that it did not receive any mail that was returned as undeliverable from Claimant's reported mailing address.

At the hearing, Claimant asserted that she lived in the home at the address reported to the Department. Claimant stated that the father of her children pays the rent and utilities and that he completed the shelter verification form provided to the Department. Claimant provided a copy of her Michigan ID which she testified contains the [REDACTED] address on the back sticker; however, the copy provided was not legible. (Exhibit 1).

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 FAP case on the basis that she failed to verify information necessary, as the Department did not request that Claimant submit any verifications.

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. Reinstate Claimant's FAP case effective June 1, 2015;
2. Issue supplements to Claimant from June 1, 2015, ongoing, in accordance with Department policy; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **6/26/2015**

Date Mailed: **6/26/2015**

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 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]