

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008328
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: July 08, 2015
County: OAKLAND-DISTRICT 4

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 July 8, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly take action to close the 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. The Claimant was an ongoing recipient of monthly FAP benefits.
2. On March 6, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that his monthly FAP allotment would be reduced.
3. On March 23, 2015, the DHS-1605, Notice of Case Action was returned to the Department as not being deliverable as addressed.
4. On March 30, 2015, the Department sent the Claimant a DHS-3503, Verification Checklist requesting verification of a current address or phone number.
5. On April 15, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action, informing the Claimant that his FAP case would close on May 1, 2015.

6. On May 20, 2015, the Department received the Claimant's written a hearing request protesting the closure of his FAP case.

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 Claimant expressed that he did not understand why the Department sent documents to [REDACTED]. The Claimant testified that he reported a different address over a year prior to the documents sent to him. The Claimant testified that he did not receive the documents sent to him as he no longer lives at that address. This Administrative Law Judge asked the Department's Eligibility Specialist whether or not the Claimant reported a different address over a year ago. The Eligibility Specialist responded that the Claimant was sent the first DHS-1605, Notice of Case Action because a departmental match had indicated that the Claimant had income. The Claimant testified that he also told his previous worker about his income. When asked again whether or not the Claimant had reported a different address over a year ago, the Department Eligibility Specialist could not answer with any certainty.

Additionally, Bridges Assistance Manual (BAM) 130 (2014) p. 2 provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using either a DHS-3503, Verification Checklist. In this case, the Department attempted to do that; however, the evidence is insufficient to establish that the Department sent the DHS-3503, Verification Checklist to the Claimant's most recent, reported address.

As such, the Administrative Law Judge concludes that the Department has not met its burden of establishing that it was acting in accordance with policy when taking action to deny the Claimant's FAP application for failure to submit the required verification.

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 took action to close the Claimant's FAP case.

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. Redetermine the Claimant eligibility for FAP back to May 1, 2015, and
2. Issue the Claimant any supplement that he may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/8/2015**

Date Mailed: **7/8/2015**

SEH/sw

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:

