

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008426
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: June 29, 2015
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due notice, a telephone hearing was held on June 29, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included [REDACTED], hearing facilitator, [REDACTED], specialist, and [REDACTED], Michigan Works! Agency triage specialist.

ISSUE

The issue is whether Claimant provided proper notice on her hearing request of her benefit dispute.

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 Family Independence Program (FIP) and Food Assistance Program (FAP) recipient.
2. On [REDACTED] 5, MDHHS determined that Claimant was eligible for \$16 in FAP benefits from 12/2014.
3. On [REDACTED], Claimant submitted a hearing request to MDHHS disputing a "Notice of Case Action."

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant testified that she wanted to dispute her FAP eligibility, effective December 2014. MDHHS contended that Claimant's hearing request failed to provide proper notice of her dispute.

Claimant submitted a hearing request to MDHHS on [REDACTED]. The first section of the hearing request asks the submitting client to check all applicable program boxes for which a hearing is needed; Claimant responded by not checking any of the program boxes. The second section asks for a narrative of the dispute precipitating the hearing; Claimant's stated explanation was "Notice of Case Action."

Claimant's poorly completed hearing request makes it highly difficult for MDHHS to reasonably respond to the dispute. Though Claimant's hearing request was highly imperfect, it is common for clients to request hearings to dispute the most recently taken MDHHS action on a client's eligibility.

MDHHS presented the first page of a Notice of Case Action dated [REDACTED] (Exhibit 1). The Notice of Case Action was issued only 6 days before Claimant requested a hearing. The Notice of Case Action listed a closure of FIP benefits, effective June 2015, and an approval of FAP benefits for \$16, effective December 2014. The Notice of Case Action was close enough in time to Claimant's hearing request that MDHHS might have predicted that Claimant wished to dispute either of the actions listed on the notice dated [REDACTED].

During the hearing, the presiding ALJ stated that Claimant could proceed with her FAP dispute despite the failure by Claimant to specify a dispute in her hearing request. After a review of evidence, a dismissal of Claimant's hearing request due to her failure to cite a specific dispute is found to be the more proper outcome.

MDHHS was unprepared to address Claimant's dispute. Attempts during the hearing were made to obtain needed evidence, however, a review of Claimant's FAP eligibility across a six month period requires more evidence than what was submitted. The lack of evidence leaves a choice between dismissing Claimant's hearing request due to its lack of specificity or ordering MDHHS to redetermine Claimant's FAP eligibility.

MDHHS' lack of hearing preparation is reasonably excusable given Claimant's failure to specify her hearing dispute. It is also more reasonable that a client be expected to check boxes and/or write a sentence clarifying her hearing dispute rather than to expect MDHHS to investigate the specifics of a claimant's hearing request.

It is important to note that Claimant will not be harmed by the dismissal, as long as she requests a second hearing (specifying her dispute) within 90 days of [REDACTED]. Claimant would be wise to also dispute an employment-related disqualification as it pertains to her FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to provide proper notice of her hearing dispute in her hearing request dated [REDACTED]. Claimant's hearing request is **DISMISSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/2/2015**

Date Mailed: **7/2/2015**

CG / hw

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:

