

**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.: 15-011363
Issue No.: 3000
Case No.: ██████████
Hearing Date: August 13, 2015
County: Macomb (20)

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 August 13, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator.

ISSUE

The issue is whether Claimant requested a hearing to dispute Food Assistance Program (FAP) eligibility.

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 on-and-off FAP recipient since August 2014.
2. As of August 2014, Claimant received employment income.
3. At an unspecified time approximated to be in September 2014, Claimant reported to MDHHS that her employment income stopped.
4. MDHHS failed to update Claimant's FAP eligibility based on the reported wage stoppage.
5. On January 21, 2015, MDHHS issued a Notice of Case Action (Exhibits 1-5) approving Claimant for FAP benefits, effective December 29, 2014 based, in part, on ████████/month in earned income.

6. On June 25, 2015, Claimant requested a hearing to dispute her FAP eligibility for the period of August 2014-May 2015.

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 requested a hearing to dispute her FAP eligibility for the period from August 2014 through May 2015. Specifically, Claimant contended that MDHHS improperly factored employment income that she reported to MDHHS as stopped income. MDHHS testimony conceded that Claimant not only reported the income as stopped, but that Claimant verified the employment income stoppage in October 2014. Prior to an analysis of the merits of Claimant's complaint, a procedural issue must be considered.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (4/2015), p. 6. The request must be received in the local office within the 90 days. *Id.*

One notable exception to the above-cited policy exists for FAP benefits. The client or AHR may request a hearing disputing the current level of [FAP] benefits at any time within the benefit period. *Id.*, p. 6.

Presumably MDHHS eventually stopped budgeting the employment income in dispute because Claimant does not seek a correction to her FAP eligibility for June 2015 or later. Because Claimant does not seek correction to her current FAP eligibility, the exception to the 90 day timeframe does not apply.

A Notice of Case Action dated January 21, 2015 (Exhibits 1-5) was presented. The notice concerned Claimant's FAP eligibility since December 29, 2014. Presented evidence suggested this was the most recent written notice issued concerning Claimant's FAP eligibility. Claimant requested a hearing on June 25, 2015. Claimant's hearing request was submitted approximately 155 days following the written notice. It is presumed that even a lengthier period exists between written notice concerning Claimant's FAP eligibility from August 2014 to November 2014 and Claimant's hearing request submission date.

Claimant testimony implied that her late hearing request should be excused. Claimant testified that MDHHS staff repeatedly made promises to reprocess her FAP eligibility. Claimant testified that she trusted MDHHS to fulfill their promises and that her misplaced trust caused the delay in submitting a hearing request. Though Claimant's testimony was credible, MDHHS does not provide exceptions to the 90 day deadline in requesting a hearing.

It is found that Claimant failed to timely request a hearing to dispute her FAP eligibility for the period of August 2014 - May 2015. Accordingly, Claimant's hearing request will be dismissed.

It should be noted that this decision only finds that Claimant is not entitled to an administrative hearing remedy concerning her complaint. Nothing within this decision prevents MDHHS from voluntarily correcting mistakes in Claimant's past FAP eligibility and/or issuing appropriate benefit supplements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely request a hearing to dispute her FAP eligibility for the period of August 2014 through May 2015. Claimant's hearing request is **DISMISSED**.



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

Date Signed: **8/14/2015**

Date Mailed: **8/14/2015**

GC/tm

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]