

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-018866
Issue No.: 3003; 3008
Agency Case No.: [REDACTED]
Hearing Date: December 3, 2015
County: WAYNE-DISTRICT 17

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Petitioner'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 December 3, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective [REDACTED]?

Did the Department properly calculate Petitioner's FAP allotment effective [REDACTED]?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner did not receive FAP benefits from or around [REDACTED]. See Exhibit A, p. 5.
2. On or around July or August of 2015, Petitioner received her redetermination.
3. On or around July or August of 2015, Petitioner testified that she left a voicemail for her worker inquiring if she had to complete the redetermination.

4. Petitioner did not submit the redetermination before the benefit period ended on [REDACTED].
5. On or around [REDACTED], Petitioner reapplied for FAP benefits.
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were approved as follows: \$112 for [REDACTED], [REDACTED]; (ii) \$338 for [REDACTED], [REDACTED] and (iii) \$430 for [REDACTED]. See Exhibit B, pp. 1-5.
7. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

FAP redetermination

A complete redetermination is required at least every 12 months. BAM 210 (July 2015 and October 2015), p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. If the client does not begin the redetermination process, the Department allows the benefit period to expire. BAM 210, p. 2.

Moreover, an interview is required before denying a redetermination, even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p. 3. For FAP telephone interviews, the individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210, p. 4. If the client misses the interview, the Department sends a DHS-254, Notice of Missed Interview. BAM 210, p. 4. The Department conducts a

telephone interview at redetermination before determining ongoing eligibility. BAM 210, p. 4 and also policy relating to in-person interviews. To conduct the interview, the Department obtains a complete redetermination/review packet from the client. BAM 210, p. 12 (see additional steps the Department completes when conducting the interview).

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10. When a complete packet is received, the Department records the receipt in its system as soon as administratively possible. BAM 210, p. 10. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 10.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 11. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 11.

In this case, Petitioner received her redetermination on or around July or August of 2015. Petitioner testified that she left a voicemail for her worker inquiring if she had to complete the redetermination. Petitioner testified that she left the voicemail inquiring if the redetermination was sent in error because she had previously received other documents in error by the Department. Petitioner testified that she indicated in the voicemail that if no call is received back, she would assume the redetermination was sent in error and she would not submit the redetermination. Petitioner testified that the previous documents requested were not for a redetermination. A review of Petitioner's case comments history found that the Department previously requested within the year, income verifications, a semi-annual contact report, etc... See Exhibit A, p. 6. Petitioner's case comments history further appeared to indicate that a Medical Assistance and/or FAP redetermination was requested approximately 12 months prior in September of 2014. See Exhibit A, p. 6. Thus, it would make sense that the Department would send another redetermination in August of 2015 because the redetermination is required at least every 12 months. BAM 210, p. 1. Nonetheless, Petitioner testified that she never received a call back from the Department, thus, she did not submit the redetermination. Petitioner testified that her Department worker called her when she filed a hearing request.

The Department indicated that Petitioner did not submit the redetermination before the benefit period ended on [REDACTED]. Therefore, Petitioner's FAP benefits closed effective [REDACTED]. See Exhibit A, p. 5.

As stated previously in policy, local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1 and see BAM 105 (July 2015), p. 14 (The local office must assist clients who ask for help in completing forms or gathering verifications).

Based on the foregoing information and evidence, the Department improperly closed Petitioner's FAP benefits effective [REDACTED], in accordance with Department policy. See BAM 105, p. 14 and BAM 210, p. 1.

First, the Department's hearing summary appears to support Petitioner's argument that her benefits should not have closed. The hearing summary stated that Petitioner's FAP benefits were restored on [REDACTED], all issues were resolved with client, and FAP benefits are approved and ongoing. See Exhibit A, p. 1. Petitioner did reapply on [REDACTED] and her benefits were approved from that point forward. See Exhibit A, p. 5. However, the undersigned infers from the hearing summary that the benefits were erroneously closed as Petitioner's FAP benefits were restored on [REDACTED], all issues were resolved with client, and FAP benefits are approved and ongoing. See Exhibit A, p. 1.

Second, the undersigned finds Petitioner's testimony credible that she contacted the Department seeking assistance with the redetermination before it was due, but to no avail. Petitioner's case worker failed to be present for the hearing to rebut her testimony. Yes, policy states that the redetermination must be completed every 12 months and Petitioner appeared to be on track to complete her redetermination as the last one occurred in September 2014. See Exhibit A, p. 6. However, policy also states that the local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1. Petitioner clearly requested assistance in this case, but received no such help. As such, the Department improperly closed Petitioner's FAP benefits effective [REDACTED]. The Department will re-determine Petitioner's FAP eligibility effective [REDACTED].

FAP benefits

As a preliminary matter, Petitioner also disputed the amount of her FAP benefits for September 2015 and October 2015. Petitioner did not dispute the amount of November 2015 issuance. On the same day of Petitioner's hearing request, the Department also issued her a Notice of Case Action notifying her of the amount of her FAP benefits for September 2015 to November 2015. Because Petitioner's hearing request occurred on the same day as the Notice of Case Action, the undersigned has the jurisdiction to address her FAP allotment. See BAM 600 (April 2015 and October 2015), pp. 1-6. Moreover, Petitioner's hearing request does dispute her FAP benefits and was submitted in the month of October 2015. Policy allows the Michigan Administrative Hearing System (MAHS) to grant a hearing when a Petitioner disputes, for FAP only, her current level of benefits or denial of expedited service. BAM 600, pp. 4-5. Because Petitioner's hearing request occurred in October 2015, the undersigned also has jurisdiction to address her current level of benefits for September 2015 to October 2015.

On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were approved as follows: \$112 for [REDACTED]

██████████; (ii) \$338 for ██████████; and (iii) \$430 for ██████████. See Exhibit B, pp. 1-5.

However, the Department failed to provide any detailed FAP budgets for September or October of 2015 showing how the Department calculated her allotment. The budget summary from the Notice of Case Action dated ██████████, was not a detailed budget to conclude whether the Department properly calculated both the September and October 2015 allotments. See Exhibit B, p. 2. In fact, the Department did not provide sufficient testimony as to how it calculated her benefits for the time period at issue.

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (April 2015 and October 2015), p. 35. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHHS policy was appropriately applied. BAM 600, pp. 37-38.

Based on the foregoing information and evidence, the Department did not satisfy its burden of showing that it properly calculated Petitioner's FAP allotment effective ██████████, ongoing. See BAM 600, pp. 35-37. The Department failed to present sufficient evidence and/or testimony of how it calculated Petitioner's FAP allotment. Thus, the Department is ordered to recalculate Petitioner's FAP allotment effective ██████████, ongoing.

DECISION AND ORDER

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 (i) the Department did not act in accordance with Department policy when it closed Petitioner's FAP benefits effective ██████████; and (ii) the Department failed to satisfy its burden of showing that it properly calculated Petitioner's FAP allotment effective ██████████, ongoing.

Accordingly, the Department's FAP 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 Petitioner's FAP eligibility effective ██████████;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from ██████████, ongoing;

3. Recalculate Petitioner's FAP budget effective [REDACTED];
4. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
5. Notify Petitioner of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/4/2015**

Date Mailed: **12/4/2015**

EF / 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:

