

**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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██████████████████
██████████████████

MAHS Reg. No.: 15-019715
Issue No.: 3001
Agency Case No.: ██████████
Hearing Date: February 08, 2016
County: Oakland-District 2
(Madison Hts)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on February 8, 2016, from Madison Heights, Michigan. Petitioner appeared and testified. She was represented by ██, her authorized hearing representative (AHR). The Department was represented by ██████████, Family Independence Manager, and ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failure to verify income?

Did the Department properly process Petitioner's request to add her grandchild to her 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. Petitioner was an ongoing recipient of FAP benefits.
2. In connection with a Medicaid redetermination, the Department became aware that Petitioner had employment.

3. On August 21, 2015, the Department sent Petitioner a Verification Checklist (VCL) concerning her ongoing FAP eligibility requesting proof of her last 30 days' employment income by August 31, 2015 (Exhibit A).
4. The Department did not receive requested proof of employment.
5. On September 16, 2015, the Department sent Petitioner a Notice of Case Action notifying her that her FAP case would close effective October 1, 2015 because she had failed to verify her earned income and because her son [REDACTED] was not an eligible student (Exhibit B).
6. On October 15, 2015, the Department received Petitioner's request for hearing disputing the Department's closure of her FAP case, the exclusion of [REDACTED] from her FAP group and the failure to add her grandchild [REDACTED] to her 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.

The first issue addressed at the hearing was the closure of Petitioner's FAP case. The Department explained that, in processing Petitioner's Medicaid redetermination, it became aware that Petitioner was employed (Exhibit C1). The Department must budget earned income in a client's FAP budget and must request verification of earned income when it becomes aware of a change in employment status. See BEM 505 (July 2014), p. 9; BEM 501 (July 2014), p. 9. Because it had not been budgeting any employment income in her FAP budget, the Department sent the August 21, 2015 VCL requesting 30 days of employment income by August 31, 2015 (Exhibit A). Therefore, the Department acted in accordance with Department policy when it sent the VCL to Petitioner.

The Department contends that it closed Petitioner's case because Petitioner did not respond to the VCL. Petitioner disputed the Department's position. She alleged that she had faxed the Department the requested pay stubs before the due date and presented a fax cover sheet (Exhibit 2). Petitioner did not produce a fax confirmation

sheet showing that the documents had been faxed to, and received by, the Department. Furthermore, a review of the fax cover sheet shows that number written in as the fax number for Petitioner's worker is actually the number listed as the worker's *phone* number on the VCL, not her *fax* number. This further supports the Department's position that it never received the check stubs from Petitioner. Accordingly, the Department acted in accordance with policy when it closed Petitioner's FAP case for failure to verify income.

In her hearing request, Petitioner also expressed concerns about the Department's removal of her son [REDACTED] from her FAP group and the Department's failure to add her granddaughter [REDACTED] to her FAP group. The Department first notified Petitioner in a June 18, 2015 Notice of Case Action that [REDACTED] was being removed from her FAP group because he was an ineligible student. A client has 90 calendar days from the date she receives written notice of a Department action to request a hearing to dispute the action Department. BAM 600 (October 2015), p. 6. Because Petitioner's October 15, 2015 hearing request was not filed within 90 days of the June 18, 2015 Notice of Case Action, Petitioner's hearing request concerning the removal of [REDACTED] from her FAP group was not timely made. A client may request a review of *current* FAP benefits at any time. BAM 600, p. 6. However, at the time of her October 15, 2015 hearing request, Petitioner was not receiving FAP benefits and the issue of [REDACTED] status was therefore not reviewable. Therefore, the issue of [REDACTED] removal from Petitioner's FAP group was not properly presented for hearing.

Petitioner also alleged that the Department failed to add her granddaughter to her FAP case. A member add that increases benefits is effective the month after it is reported. BEM 550 (October 2015), p. 4. Petitioner asserted that her daughter reported the granddaughter's birth to the Department at the end of July 2015, shortly after the child's birth, in connection with obtaining Medicaid coverage for the child. However, in the redetermination Petitioner submitted to the Department on August 3, 2015, Petitioner did not identify her grandchild as a household member (Exhibit C2). Because the evidence does not establish that there was a member add requested for the child prior to the October 1, 2015 case closure, the Department did not err when it failed to add the child as a member of Petitioner's FAP group.

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 acted in accordance with Department policy when it closed Petitioner's FAP case and in processing the member add.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/12/2016**

Date Mailed: **2/12/2016**

ACE / 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]