

**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.: 15-022988
Issue No.: 3001
Agency Case No.: ██████████
Hearing Date: January 27, 2016
County: Wayne-District 19
(Inkster)

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, a telephone hearing was held on January 27, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department was represented by ██████████ Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner'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. Petitioner was an ongoing recipient of FAP benefits.
2. The Department failed to send Petitioner a redetermination.
3. Petitioner's FAP case closed effective November 1, 2015 due to her failure to submit a completed redetermination.
4. On November 13, 2015, Petitioner reapplied for FAP benefits.
5. The Department approved Petitioner's application and issued FAP benefits for the period beginning November 13, 2015.
6. On December 7, 2015, the Department received Petitioner's request for hearing disputing the Department's closure of 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.

Petitioner disputed the closure of her FAP case. The Department testified that Petitioner's FAP case closed effective November 1, 2015 because she had failed to submit a completed redetermination. A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210 (October 2015), p. 1. Under Department policy, the Department sends the client a redetermination packet three days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210, p. 6. If a FAP redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the client's FAP case. BAM 210, p. 11.

In this case, the Department acknowledged that its records indicated that no redetermination had been mailed to Petitioner. Because the Department could not establish that it had sent a redetermination form to Petitioner, it did not act in accordance with Department policy when it closed Petitioner's FAP case due to her failure to return the completed redetermination.

It is noted that Petitioner expressed concerns about the calculation of her FAP benefits once her case was reopened on November 13, 2015. Evidence at the hearing established that Petitioner had reapplied for FAP benefits on November 13, 2015 and, although she was approved for benefits effective as of that day, the Department failed to consider her rent in calculating her FAP allotment. It appeared that the Department requested verification of Petitioner's rent in connection with the new application but found the submitted documentation inadequate. While the Petitioner's recalculated FAP benefits are not the basis of Petitioner's current hearing request, it is noted that in a redetermination, the client is required to submit proof of an expense only if it has changed. BAM 210, p. 15. Petitioner credibly testified that she did not have any change in her rent expense. As such, Petitioner would not have had to verify the

ongoing rental expense had the Department properly sent a redetermination and her ongoing rental expense would continue to be budgeted in calculating her FAP allotment for November 1, 2015 ongoing.

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 did not act in accordance with Department policy when it closed Petitioner's FAP case for failure to complete the redetermination process.

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. Reinstate Petitioner's FAP case effective November 1, 2015;
2. Send Petitioner a redetermination and process any returned redetermination submitted by Petitioner in accordance with Department policy;
3. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from November 1, 2015 ongoing; and
4. Notify Petitioner in writing of its decision.



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

Date Signed: **2/3/2016**

Date Mailed: **2/3/2016**

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]