

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

MAHS Reg. No.: 15-023203
Issue No.: 2000; 3002; 3003
Agency Case No.: [REDACTED]
Hearing Date: January 28, 2016
County: WAYNE-DISTRICT 31

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 January 28, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department was represented by Natalie Anderson, Eligibility Specialist; and Julie Cylla, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective May 1, 2015, ongoing?

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. See Exhibit A, p. 34.
2. On April 1, 2015, the Department conducted a redetermination telephone interview with the Petitioner in order to determine her eligibility for her ongoing FAP benefits. See Exhibit A, p. 6.
3. As a result of the telephone interview, the Department sent Petitioner on April 1, 2015, a Verification Checklist (VCL) requesting proof of savings/checking accounts and home rent. See Exhibit 1, pp. 4-5. The verifications were due back by April 13, 2015. See Exhibit 1, p. 4.

4. Petitioner submitted the verifications timely by the due date. See Exhibit A, pp. 44-45.
5. On April 20, 2015, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective May 1, 2015, ongoing, based on her failure to comply with the verification requirements.
6. On April 23, 2015, Petitioner filed a hearing request, protesting her FAP closure and Medical Assistance (MA) benefits. See Exhibit A, pp. 3-5.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

First, on April 23, 2015, Petitioner also requested a hearing disputing her MA benefits. See Exhibit A, pp. 3-5. Shortly after commencement of the hearing, Petitioner acknowledged that the MA issue had been resolved. As such, Petitioner's MA hearing request is DISMISSED.

Second, on January 28, 2016, Petitioner submitted a Hearing Request Withdrawal (on the day of the hearing). However, the undersigned Administrative Law Judge denied Petitioner's request for a hearing withdrawal as Petitioner failed to state a reason for the withdrawal. See BAM 600 (October 2015), pp. 26-29.

FAP case closure

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8.

Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (April 2015), p. 1. A complete redetermination is required at least every 12 months. BAM 210, p. 1. For FAP only 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, allow the benefit period to expire. BAM 210, p. 2.

In regard to FAP redetermination verification deadlines, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14. If the tenth day falls on a weekend or holiday, the verification will not be due until the next business day. BAM 210, p. 14. Note the DHS-3503 Verification Checklist (VCL), should be sent after the redetermination interview for any missing verifications, allowing 10 days for their return. BAM 210, p. 14. If verifications are provided by the required deadline but too late for normal benefit issuance, benefits must be issued within five work-days. BAM 210, p. 14. Note, if an expense has changed and the client does not return proof of the expense, but all of the sections on the report are answered completely, end-date the expense from the appropriate data collection screen(s) in Bridges before running eligibility determination and benefit calculation (EDBC). BAM 210, p. 15.

BAM 130 further states that the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (October 2014), p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day. BAM 130, p. 6. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

In the present case, both parties acknowledged that Petitioner submitted the verifications timely by the VCL due date (due date of April 13, 2015). See Exhibit A, pp. 44-45. As such, the Department improperly closed Petitioner's FAP benefits because she submitted the verifications by the due date. See BAM 105, p. 8; BAM 130, p. 6; and BAM 210, pp. 1-15. Because Petitioner's case closure was based on a FAP redetermination, the Department will redetermine her FAP eligibility effective May 1, 2015, in accordance with Department policy.

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 the Department did not act in accordance with Department policy when it improperly closed Petitioner's FAP benefits effective May 1, 2015.

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 for May 1, 2015, ongoing;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from May 1, 2015, ongoing; and
3. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's **MA** hearing request (dated April 23, 2015) is **DISMISSED**.



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

Date Signed: **1/28/2016**

Date Mailed: **1/28/2016**

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.

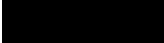
The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

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: 
Wayne-District 31 (Grandmont)/ 1843
BSC4-HearingDecisions
Michelle Best
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MAHS