

**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.: 15-023582
Issue No.: 3007
Agency Case No.: ██████████
Hearing Date: February 04, 2016
County: Wayne-District 18
(Taylor)

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 February 4, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department was represented by ██████████, Assistance Payment Supervisor, and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's reported income decrease to affect December 1, 2015 ongoing Food Assistance Program (FAP) benefits?

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, a seasonal employee, is an ongoing recipient of FAP benefits.
2. On October 26, 2015, Petitioner reported her loss of employment to the Department.
3. On October 27, 2015, the Department received verification of Petitioner's loss of employment.
4. On November 2, 2015, the Department processed the reported change.
5. Effective December 1, 2015, Petitioner's monthly FAP benefits increased due to her loss of employment.

6. On December 21, 2015, the Department received Petitioner's request for hearing asserting that the change should have been effective for her November 2015 FAP benefits and she is eligible for a FAP supplement (Exhibit B).

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 facts are not in dispute in this matter: Petitioner, a seasonal worker, notified the Department of her loss of employment on October 26, 2015 and verified the lost employment on October 27, 2015. The Department processed the change on November 2, 2015. At issue is when the change should have affected FAP benefits. The Department processed the change to affect December 1, 2015 ongoing benefits. Petitioner argues that the change should have been effective November 1, 2015 and seeks a FAP supplement for the month of November 2015. While the local office applied for a help desk ticket in an attempt to obtain a supplement for Petitioner, the ticket request was denied on the basis that, under Department policy, Petitioner's reported change properly became effective December 1, 2015.

For FAP purposes, income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (July 2015), p. 10; BAM 220 (October 2015), p. 7. The Department must process the change within ten days of the date it is reported. BAM 220, p. 7.

Based on a change Petitioner reported on October 26, 2015 and verified on October 27, 2015, the first FAP allotment issued 10 days after the change is reported is the December 2015. Because the Department timely processed the reported change on November 2, 2015, the Department acted in accordance with Department policy when it increased Petitioner's FAP allotment effective December 1, 2015. Therefore, Petitioner is not eligible for a FAP supplement for November 2015.

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 processed Petitioner's reported income change to affect her December 1, 2015 ongoing FAP benefits.

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]