



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR



Date Mailed: March 8, 2016
MAHS Docket No.: 16-000829
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 March 2, 2016, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Hearing Facilitator [REDACTED]

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP)?

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 Food Assistance Program (FAP) benefits. His Food Assistance Program (FAP) eligibility was due for re-determination by February 29, 2016.
2. On November 25, 2015, Petitioner was sent a Wage Match Client Notice (DHS-4638). The wage verification was due back by December 28, 2015.
3. On January 13, 2016, Petitioner was sent a Notice of Case Action (DHS-1605) which stated his Food Assistance Program (FAP) would close February 1, 2016 for failure to provide verifications.
4. On January 25, 2016, Petitioner submitted a Food Assistance Benefits Redetermination Filing Record (DHS-2063-B) and a hearing request.

5. On February 1, 2016, Petitioner's Food Assistance Program (FAP) DID NOT close.
6. On February 29, 2016, Petitioner's Food Assistance Program (FAP) closed but no notice was issued.

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.

During this hearing, the Department representative testified that the reason Petitioner's Food Assistance Program (FAP) closed on February 29, 2016 was his failure to submit a response to the November 25, 2015, Wage Match Client Notice (DHS-4638). She also testified that Petitioner's case worker did not request verification of income during the redetermination process and that the Wage Match Client Notice (DHS-4638) should not have caused the FAP to close because the information was available online through the Work Number.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

Bridges Administration Manual (BAM) 600 Hearings is the Department's policy guidance derived from the administrative rules cited above. BAM 600 requires that a request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. (Page 2) It also specifies that a hearing request must be submitted within 90 calendar days of the date of a written notice of case action. (Page 6) Department actions for which a hearing is granted are provided on pages 4 & 5 as follows:

Granting a Hearing

All Programs

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For **FAP only**, the current level of benefits or denial of expedited service.

This case presents some unusual circumstances from a jurisdictional perspective. The January 13, 2016, Notice of Case Action (DHS-1605) stated Petitioner's Food Assistance Program (FAP) would close on February 1, 2016. The January 13, 2016 notice was the reason Petitioner requested a hearing. In one aspect the January 13, 2016 notice is null and void because Petitioner's Food Assistance Program (FAP) DID NOT close on February 1, 2016. Petitioner's Food Assistance Program (FAP) DID close on February 29, 2016 for the same reason given in the January 13, 2016 notice. It is of importance that no superseding Notice of Case Action (DHS-1605) notice was issued. However, Bridges Administration Manual (BAM) 210 Redeterminations/Ex Parte Review, regarding an eligibility redetermination do not require that a Notice of Case Action (DHS-1605) be issued if the previous certification period ends before a new eligibility determination is made. Statutory and constitutional notice requirements applicable to the closure are addressed by other notices issued by the Department. There are no documents of that nature in this evidentiary record.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP).

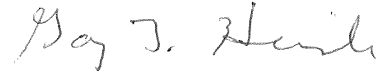
DECISION AND ORDER

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. Reregister Petitioner's Food Assistance Program (FAP) redetermination and process it in accordance with Department policy.
2. Issue Petitioner a current notice of his Food Assistance Program (FAP) eligibility from February 29, 2016 ongoing.

3. Supplement Petitioner any Food Assistance Program (FAP) benefits he was otherwise eligible for but did not receive due to this unsupported action.



GH/nr

Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]