



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: April 4, 2016  
MAHS Docket No.: 16-001695  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

### **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 28, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by Tiffany Willingham, Hearing Facilitator and Anthony Young, Family Independence Specialist.

### **ISSUE**

Did the Department properly comply with a previous order requiring that Petitioner's FAP benefits be reinstated effective August 1, 2015?

### **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 is an ongoing FAP recipient.
2. On or about August 1, 2015, Petitioner's FAP benefits thought the MiCAP unit closed.
3. On August 3, 2015, Petitioner applied for FAP benefits through a local office.
4. Petitioner was approved for FAP benefits at a lower amount than he was previously receiving through the MiCAP unit.

5. On January 15, 2015, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would close effective February 1, 2016 for failing to return verifications.
6. On February 5, 2016, Petitioner filed a request for hearing disputing the Department's actions.

### **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.

Additionally, the Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers **that allow DHHS to issue Food Assistance Program (FAP) benefits** to Supplemental Security Income (SSI) individuals who qualify for this program. The program is administered by the centrally located MiCAP unit. Final eligibility determination and redeterminations are the responsibility of the MiCAP unit. [Emphasis added]. Department policy specifically states that the MiCAP program allows DDDHS to issue FAP benefits... As such, DHHS must issue the benefits if eligible.

In this case, Petitioner was initially receiving benefits from the MiCAP unit. In August 2015, his benefits through the MiCAP unit closed. Petitioner subsequently applied for FAP benefits at his local office. Petitioner was approved for FAP benefits, but at a lower rate than he previously received through the MiCAP unit. Petitioner requested a hearing and a hearing was held on November 19, 2015. No one from the MiCAP unit appeared at the November 19, 2015 hearing. The Hearing Facilitator appearing at the hearing was unaware as to why Petitioner's MiCAP benefits closed. On December 1, 2015, the Administrative Law Judge conducting the November 19, 2015 hearing ruled that Petitioner's benefits were to be reopened retroactive to August 1, 2015.

Petitioner testified that prior to the closure of his MiCAP benefits in August 2015, he received approximately \$175.00 in FAP benefits. The Department confirmed that, based upon the new application with the local office on August 3, 2015 and not the

reopening of Petitioner's MiCAP benefits, he received \$126.00 in FAP benefits for August and September 2015 and \$122.00 in FAP benefits from October 2015, ongoing. The benefits received from September 2015, ongoing were benefits received from the local office as a result of the new application and not through the reopening of Petitioner's benefits with the MiCAP unit.

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 failed to comply with the Decision and Order issued on December 1, 2015.

### **DECISION AND ORDER**

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. Comply with the December 1, 2015 Decision and Order, which includes the MiCAP unit within the Department of Health and Human Services reopening Petitioner's FAP benefits as of August 1, 2015, if otherwise eligible;
2. Issue supplements Petitioner was entitled to receive but did not receive effective August 1, 2015; and
3. Notify Petitioner in writing of its decision.

JM/hw



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**Jacquelyn A. McClinton**

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**

Cynthia Pitts  
12140 Joseph Campau  
Hamtramck, MI 48212

BSC4-HearingDecisions  
FAP

**Petitioner**

