



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: November 10, 2016
MAHS Docket No.: 16-014983
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

ORDER OF DISMISSAL

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 [REDACTED] from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close the 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. The Petitioner was an ongoing recipient of FAP.
2. At the hearing, the Department representative admitted that it improperly closed the Petitioner's FAP effective [REDACTED], in error. The Department mistakenly found the Petitioner to have failed to complete her Semi-Annual Contact Information.
3. After the Petitioner's hearing request, but prior to the hearing, the Department approved the Petitioner for FAP effective [REDACTED], thereby causing no loss of benefits for the Petitioner.

4. The Petitioner requested a timely hearing regarding the closure on [REDACTED] at which time, she protested the closure of her FAP.
5. The Petitioner also sought correction of her FAP benefit allotment for [REDACTED] as a result of a finding on [REDACTED]. The Petitioner's request for hearing regarding her FAP was untimely as it was not requested within 90 days of the Department's action on [REDACTED].

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.

In this case, the Department admitted on the record that it had improperly closed the Petitioner's FAP effective [REDACTED]. Prior to the hearing, the Department reinstated the Petitioner's FAP benefits and provided a supplement for the Petitioner for FAP benefits she was otherwise entitled to receive. The Petitioner also conceded on the record that she had not missed any benefits during the period of the closure and had received FAP supplemental benefits for [REDACTED] and [REDACTED] ongoing. Based upon this fact scenario, there is nothing for the undersigned to decide with respect to the incorrect closure, which occurred in which has been corrected by the Department.

In addition, the Petitioner raised at the hearing a request that the undersigned resolve her [REDACTED] FAP allotment of \$ [REDACTED] which she believed was incorrect. The Department found the Petitioner entitled to these benefits on [REDACTED]. Thereafter, the Petitioner filed the instant hearing request on [REDACTED]. The current hearing request, which is before the undersigned, does not contain any reference to her dissatisfaction with her [REDACTED] benefits, which she did not mention in appeal. That hearing request notes that it was regarding the closure of her FAP. Given these facts, the Petitioner's attempt to request a hearing regarding the [REDACTED] determination by the Department of her FAP amount for the month of [REDACTED] was untimely as the hearing request was made more than 90 days after the Department's action. As such, the undersigned has no jurisdiction to hear the issue.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2016), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be **received in the Department local office within 90 days of the date of the written Notice of Case Action.**

In the present case, the Department sent Petitioner a Notice advising Petitioner of its decision regarding the amount of Petitioner's FAP benefits for [REDACTED]. The Petitioner did not dispute the date she was notified about her benefit amount. In this case, because the Petitioner failed to timely appeal the benefit amount for [REDACTED] the Petitioner's hearing request, even if considered part of her current hearing request, is determined untimely.

Because Petitioner's hearing request was not timely filed within 90 days of the Department determination, it is, therefore, **DISMISSED** for lack of Jurisdiction

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 closed the Petitioner's FAP case; however, at the time of the hearing, the FAP case was reinstated; and the Petitioner had received a FAP supplement for all benefits she was entitled to receive. Thus, nothing remains to be determined by the undersigned.

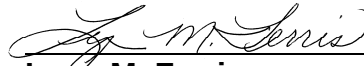
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Petitioner's request for hearing to consider her [REDACTED] FAP benefit amount was untimely.

Accordingly, the Petitioner's request for hearing is **Dismissed** as regards the FAP closure, and;

Dismissed for lack of jurisdiction due to her request regarding the Department [REDACTED]
[REDACTED] determination of Petitioner's FAP benefits amount as it is untimely.

IT IS SO ORDERED

LMF/jaf



Lynn M. Ferris

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.

DHHS

[REDACTED]

Petitioner

[REDACTED]

[REDACTED]