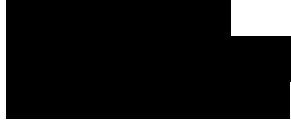




RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR



Date Mailed: November 2, 2017  
MAHS Docket No.: 17-012780  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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; 42 CFR 438.400 to 438.424; 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 November 1, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Steven Remier, Family Independence Specialist, and Eileen Kott, Family Independence Manager.

**ISSUE**

1. Did the Department properly close Petitioner Family Independence Program (FIP) benefit case?
2. Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit 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. Petitioner was an ongoing FAP and FIP recipient.
2. On [REDACTED], 2017, Petitioner submitted an application for State Emergency Relief (SER) benefits.

3. On April 10, 2017, the Department sent Petitioner a State Emergency Relief Decision Notice informing Petitioner that her SER application was denied (Exhibit A).
4. On May 4, 2017, the Department sent Petitioner a Redetermination for her FIP case (Exhibit C).
5. On June 1, 2017, the Department sent Petitioner a Semi-Annual Contact Report for her FAP case (Exhibit H).
6. On June 17, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FIP benefit case was being closed effective July 1, 2017, ongoing, for her failure to complete the redetermination (Exhibit B).
7. On July 17, 2017, Petitioner submitted the completed Redetermination for her FIP case.
8. On July 17, 2017, Petitioner submitted the completed Semi-Annual for her FAP case.
9. Effective August 1, 2017, the Department closed Petitioner FAP benefit case.
10. On September 21, 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding her SER application and the closure of her FIP and FAP benefit cases.

### **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).

### **SER**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Petitioner's hearing request was submitted, in part, to dispute the Department's actions regarding her SER application. The Department presented a State Emergency Relief Decision Notice that was sent to Petitioner on April 10, 2017. Before the substance of the dispute can be examined, it must be determined if Petitioner's hearing request was timely.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600, p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

Petitioner submitted a hearing request to the Department's action regarding her SER application on [REDACTED], 2017. The request was submitted more than 90 days after the Department issued written notice of the denial of her SER request. Thus, Petitioner's hearing request is untimely.

Petitioner's hearing request with respect to SER benefits was not timely filed within 90 days of notice and is, therefore, **DISMISSED** for lack of jurisdiction.

### FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 1. For FIP benefits, if a redetermination is not received and logged by the Department by the negative action cut-off date of the redetermination month, the Department will automatically close a client's FIP benefit case. BAM 210, p. 12.

In this case, the Department sent Petitioner a redetermination packet on May 4, 2017, with a due date of June 1, 2017. Petitioner was also advised she must attend an interview on [REDACTED], 2017. Petitioner did not attend the interview or complete the redetermination by [REDACTED], 2017. On June 17, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FIP benefit case was closing effective July 1, 2017, ongoing. Petitioner did not return the redetermination until after July 1, 2017. As the Department did not receive the redetermination before the negative action date, the Department acted in accordance with policy when it closed Petitioner's FIP benefit case.

### FAP

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 Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. The Department sends a Semi-Annual Contact Report to clients at the beginning of the fifth month for FAP cases assigned to a 12-month benefit period. BAM 210, p. 10. If a client fails to return a Semi-Annual Contact Report, the Department will issue a Potential Food Assistance Closure form notifying the client he/she must submit all required verifications by the last day of the month, or the case will close. BAM 210, p. 13. If the client fails to return the Semi-Annual Contact Report (Semi-Annual) by the last day of the sixth month, the Department will automatically close the FAP case. BAM 210, p. 13.

The Department sent Petitioner a Semi-Annual on June 1, 2017. Petitioner returned the Semi-Annual on July 17, 2017. On the Semi-Annual, Petitioner indicated that her daughter, [REDACTED], was still living in her home. The Department testified that it discovered [REDACTED] was working and retrieved her Work Number report. Petitioner and her children also had unearned income. The Department stated it calculated Petitioner's household income and discovered Petitioner exceeded the income limit. However, at some point, Petitioner notified the Department that [REDACTED] was no longer living in her household. The Department was unable to determine Petitioner's correct household group size and income. As a result, Petitioner's FAP benefit case was closed effective August 1, 2017, ongoing. On September 29, 2017, the Department reinstated Petitioner's FAP benefit case back to August 1, 2017. However, FAP benefits were never issued to Petitioner, as the group size status was still in question. The Department never issued a Notice of Case Action informing Petitioner of the closure of her FAP benefit case.

In this case, the Department did not close Petitioner's FAP benefit case due to the failure to return the Semi-Annual, but rather, due to eligibility reasons. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2017), p. 2. A notice of case action must specify the following: the action(s) being taken by the department, the reason(s) for the action, the specific manual item which cites the legal base for an action or the regulation or law itself, an explanation of the right to request a hearing and the conditions under which benefits are continued if a hearing is requested. BAM 220, p. 3. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 5. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 5. The action is pending to provide the client a chance to react to the proposed action. BAM 220, p. 5.

The Department never issued Petitioner a Notice of Case Action informing her that her FAP benefit case was closing. Therefore, the Department failed to establish that it properly followed policy when it closed Petitioner's FAP benefit case.

### DECISION AND ORDER

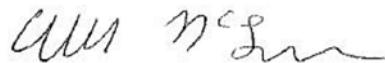
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP benefit case. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefit case.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's FIP benefit case and **REVERSED IN PART** with respect to Petitioner's FAP benefit case.

Petitioner's request for hearing regarding her SER benefits is **DISMISSED**.

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 as of August 1, 2017, ongoing;
2. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from August 1, 2017, ongoing;
3. Notify Petitioner of its FAP decision in writing.



EM/jaf

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**Ellen McLemore**

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**

MDHHS-Wayne-76-Hearings

**Petitioner**



BSC4  
T Bair  
E Holzhausen  
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