



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: February 13, 2018  
MAHS Docket No.: 17-017044  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 February 12, 2018, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Specialist.

**ISSUE**

Did the Department properly close the Petitioner's Food Assistance (FAP) for failure to complete the redetermination?

**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 Department sent the Petitioner a Redetermination for Food Assistance on November 4, 2017 which the Petitioner returned on November 28, 2017. The Redetermination was due to be reviewed by phone on December 1, 2017 and thus the Redetermination was timely returned by Petitioner. Exhibit 3
2. The Department closed the Petitioner's FAP benefits due to failure to complete the redetermination. The FAP certification period ended December 31, 2017.
3. At the time of the hearing held on February 12, 2018, the Department hearing summary indicated that it closed Petitioner's FAP benefits in Error. Hearing Summary dated January 12, 2017.

4. The Petitioner requested a timely hearing on December 27, 2017 protesting the closure of his FAP case.

### **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 conceded that it improperly closed the Petitioner's FAP case for failure to timely return the redetermination. The Department stipulated on the record that Petitioner's FAP case was improperly closed and was reinstated January 10, 2018. At the time of the Petitioner's hearing request, because this was a redetermination, no notice of case action was sent because the case closes automatically when redeterminations are not completed before the certification period expires BEM 220 (January 2018), p. 5. Cases must be reinstated when:

Reinstatement restores a closed program to active status without completion of a new application.

Closed programs may be reinstated for any of the following reasons:

- Closed in error.
- Closed-correct information not entered.
- Timely hearing request. BAM 205 (January 2018), p. 1.

As explained at the hearing, when the Department found that the FAP case was closed in error, after it received the Petitioner's hearing request, it was required to reinstate the case. Because as of the hearing request the case was not scheduled to close until December 31, 2017, (the end of the certification period), the Department must reinstate the FAP case, if not already reinstated, based upon agency error and process it in accordance with the time frames outlined in BAM 220. As explained at the hearing, the Notice reinstating the case was issued after the Petitioner's December 27, 2017 hearing request, however the reinstatement by the Department must insure that Petitioner's

FAP benefits for November 2017 and December 2017 were issued and that there is no lapse in benefit eligibility. Because the Department did not provide a FAP eligibility summary to establish the date and period of reinstatement, the undersigned will order that the FAP case be reinstated for December 2017, if not already reinstated.

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 for failure to complete the redetermination.

### **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. The Department shall reinstate the Petitioner's FAP case as of December 2017 and process the FAP redetermination if not already accomplished.
2. The Department shall issue, only if necessary, a FAP supplement for any FAP benefits that were not issued due to the Department's improper closure of Petitioner's FAP case for failure to complete the redetermination.

LF/tm



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**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 (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

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