



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: August 23, 2018  
MAHS Docket No.: 18-006709  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** John Markey

**ORDER OF DISMISSAL  
FOR LACK OF JURISDICTION**

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, telephone hearing was held on August 2, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department was represented by Alisha Conley-Dankert, eligibility specialist supervisor.

**ISSUE**

Does Petitioner's request for a hearing fall under the jurisdiction of Michigan Administrative Hearing System (MAHS) to issue a decision?

**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 had an active Food Assistance Program (FAP) case and was receiving \$192.00 per month in benefits from October 1, 2017, through February 28, 2018. Exhibit A, page 1.
2. On March 8, 2018, the Department issued a Notice of Case Action to Petitioner informing petitioner that his FAP case was being closed due to Petitioner's failure to verify information necessary to determine Petitioner's ongoing eligibility. Exhibit A, page 2.

3. The March 8, 2018 Notice of Case Action clearly informed Petitioner that an appeal of the Department's action must be received by the Department within 90 days of the mailing date of the notice, and informed Petitioner that the deadline was June 6, 2018. Exhibit A, page 2.
4. On June 25, 2018, the Department received Petitioner's request for hearing objecting to the Department's action

### **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).

Clients have the right to a hearing to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. Upon receiving a request for hearing, the Department will forward the matter to the Michigan Administrative Hearing System (MAHS) for a hearing before an Administrative Law Judge (ALJ). The ALJ has jurisdiction to hear a case involving 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. BAM 600 (January 1, 2018), page 5.

However, the ALJ only has jurisdiction to hear a timely and properly submitted request for hearing. BAM 600 (January 1, 2018), page 6, provides in relevant part as follows:

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

Petitioner requested a hearing on June 25, 2018, claiming that the closure of his FAP benefits was not in accordance with relevant policy. The Notice of Case Action informing Petitioner of the Department's action was issued on March 8, 2018. Because Petitioner's hearing request was untimely, whether or not the Department properly closed Petitioner's FAP benefits is not an issue that this ALJ has the authority to hear or

issue a decision upon. Since the issue raised by Petitioner's request for a hearing falls outside the ALJ's jurisdiction, Petitioner's request for a hearing must be dismissed for lack of jurisdiction.

Therefore,

IT IS ORDERED that Petitioner's June 25, 2018, request for hearing is dismissed for lack of jurisdiction.



JM/dh

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**John Markey**  
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**

Sharon Reuther  
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Owosso, MI 48867

Shiawassee County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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