



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: January 14, 2019
MAHS Docket No.: 18-013028
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 January 10, 2019, from Lansing, Michigan. Petitioner was unrepresented. The Department of Health and Human Services (Department) was represented by Richkelle Curney, HF. Makala Williams, APW, appeared as a witness.

ISSUE

Is Petitioner entitled to two administrative hearings on the same issue?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner has been a beneficiary of the FAP program. Petitioner has been a beneficiary since 2014 or earlier.
2. Petitioner's case was scheduled for review for the month of October 2018.
3. Petitioner's case closed effective 10/1/18 due to excess income.
4. On October 22, 2018, Petitioner filed a hearing request. MAHS scheduled that hearing for January 10, 2019. The Findings of Facts and Conclusions of Law are adopted and incorporated by reference herein, MAHS Docket No.: 18-013031.

5. Before Petitioner's hearing request was scheduled for hearing by MAHS, Petitioner filed another hearing request on December 3, 2018, stating: "I had a hearing about my benefits being denied multiple times by our specialist, and she gave me a paper to drop the case and I signed on it without reading and understanding completely." The local office forwarded the second request to MAHS. MAHS opened another new file and scheduled another hearing for January 10, 2019, resulting in the instant case.
6. The issue and time period for which Petitioner asked for a second hearing are identical to the first hearing request, already reviewed and decided in MAHS Docket No.: 18-013031.

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, Petitioner's second hearing request disputes the closure of his FAP case effective October 1, 2018. Petitioner previously filed a hearing request on 10/22/18 on the identical issue and had an administrative hearing with a decision and order issued by the undersigned, MAHS Docket No.: 18-013031.

Petitioner evidentially believed that he had withdrawn his first request, which is why he filed a second. However, no evidence was present of a withdrawal, and MAHS proceeded with scheduling two separate hearings.

This Administrative Law Judge has no authority, and Petitioner offered none, that would grant him the right to have two hearings on the same issue involving the same time frame. Thus, Petitioner's December 3, 2018, hearing request must be dismissed as it is duplicative.

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 there is no right to a

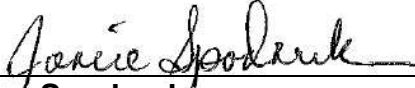
second administrative hearing on the same issue. Petitioner's December 3, 2018, hearing request is dismissed.

In the alternative, the issue for which Petitioner requests review was already decided in MAHS Docket No.: 18-013031, which stands.

DECISION AND ORDER

Accordingly, Petitioner's December 3, 2018, hearing request is dismissed for lack of jurisdiction.

JS/dh



Janice Spodarek
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) 763-0155; 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

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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