



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

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Date Mailed: January 29, 2019  
MAHS Docket No.: 18-013175  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on January 23, 2019, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Karina Littles.

**ISSUE**

Did the Department of Health and Human Services (Department) properly close Petitioner's Food Assistance Program (FAP) benefits?

**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 a Food Assistance Program (FAP) recipient on December 4, 2017, when the Department sent him a Redetermination (DHS-1010) with instruction to return it by January 2, 2018. Exhibit A.
2. On December 28, 2017, the Department received portions of the Redetermination (DHS-1010) form from Petitioner, but portions were missing including the signature page. Exhibit A.
3. On January 2, 2018, the Department sent Petitioner a Notice of Missed Interview (DHS-254) instructing him that it was his responsibility to reschedule his redetermination interview. Exhibit B.

4. The Department closed Petitioner's Food Assistance Program (FAP) benefits effective January 31, 2018, which was the end of the benefit period.
5. On December 11, 2018, the Department received Petitioner's request for a hearing protesting the closure of his Food Assistance Program (FAP) benefits.

### **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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

If a redetermination packet is not logged in by the last working day of the redetermination month, the Department will automatically close FAP benefits and a notice of case action is not sent. Department of Health and Human Services Bridges Administrative Manual (BAM) 210 (January 1, 2019), p 13.

Petitioner was an ongoing FAP recipient when the Department sent him a Redetermination (DHS-1010) with a January 2, 2018, due date. The Department received a portion of the form back from Petitioner, but portions of the redetermination pack were missing, including the signature page. Petitioner's FAP benefits closed effective January 31, 2018, which was at the end of the benefit period in accordance with BAM 210.

While Petitioner did make an attempt to submit the redetermination to the Department in a timely manner, the Department was unable to accurately determine his eligibility for ongoing FAP benefits without the entire redetermination pack.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p. 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 anywhere in DHS within the 90 days.

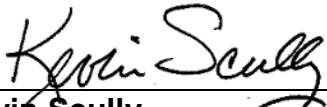
Petitioner's hearing request was not received in a timely manner from the closure of his FAP benefits. Even if this Administrative Law Judge were to find that he had made a reasonable attempt to complete the eligibility process, the Michigan Administrative Hearing System (MAHS) does not have jurisdiction to order the Department to reinstate his FAP benefits.

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 Food Assistance Program (FAP) benefits effective January 31, 2018.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dh

  
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**Kevin Scully**  
Administrative Law Judge  
for Robert Gordon, 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**

Richard Latimore  
4733 Conner  
Detroit, MI 48215

Wayne County (District 57), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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