



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 16, 2019
MAHS Docket No.: 19-002602
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 April 15, 2019, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Alex Martell, Family Independence Manager; Mazzie Booker, Eligibility Specialist; and Sandra Cheatem-Dooley, District Manager.

ISSUE

Did the Department properly allow Petitioner's Food Assistance Program (FAP) benefit case to close?

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 recipient.
2. On December 4, 2018, the Department sent Petitioner a redetermination packet.
3. On January 2, 2019, the Department sent Petitioner a Notice of Missed Interview.
4. On March 4, 2019, the Department sent Petitioner a Benefit Notice informing him that his FAP benefit case was closing effective February 1, 2019, ongoing.
5. On March 11, 2019, Petitioner submitted a request for hearing regarding his FAP and State Disability Assistance (SDA) 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).

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.

On December 4, 2018, the Department sent Petitioner a redetermination form to be completed. On the form, Petitioner was advised that he must attend an interview on January 2, 2019. On December 4, 2018, the Department sent Petitioner a Food Assistance Benefits Redetermination Filing Record informing him that his FAP benefits will expire on January 31, 2019, and he must complete the redetermination.

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 FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 1. If a client does not begin the redetermination process, the benefit period will be allowed to expire. BAM 210, p. 1.

The Department testified that Petitioner did not timely return the redetermination. As a result, Petitioner's FAP benefits lapsed as of January 31, 2019. Petitioner testified that he did not receive the redetermination. Petitioner stated he also did not receive the Notice of Missed Interview that was sent by the Department on January 2, 2019.

The Department presented sufficient evidence that Petitioner was sent a redetermination and he did not timely return the redetermination paperwork. Therefore, the Department acted in accordance with policy when it allowed Petitioner's FAP benefits to lapse.

SDA

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

In this case, Petitioner requested a hearing, in part, to dispute the actions taken by the Department regarding his SDA benefit case. The last decision issued by the Department related to Petitioner's SDA benefit case was on September 28, 2018. On October 23, 2018, Petitioner submitted a request for hearing. A hearing was held with the Michigan Administration Hearing System (MAHS) on January 3, 2019, pursuant to Petitioner's hearing request. On January 18, 2019, MAHS issued a Hearing Decision affirming the Department's September 28, 2018 decision.

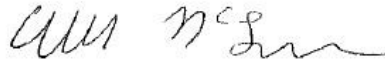
After a hearing, the Administrative Law Judge (ALJ) determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether MDHHS policy was appropriately applied. BAM 600 (August 2018), p. 39. The ALJ issues a final decision unless: I) the ALJ believes that the applicable law does not support MDHHS policy or (ii) Department policy is silent on the issue being considered. BAM 600, p. 39. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600, p. 39. MAHS mails the final hearing decision to the client, the AHR and the local office. In most cases, the client has the right to appeal a final decision to circuit court within 30 days after that decision is received. BAM 600, p. 40. The client may also file a written request for rehearing/reconsideration with MAHS within 30 days of the date the hearing decision was mailed. BAM 600, pp. 45-47.

The undersigned ALJ does not have the authority to address the issue regarding Petitioner's request for hearing related to his SDA benefit case, as a final decision has been issued related to the matter. Petitioner's only recourse is to submit an appeal to the circuit court or a request for reconsideration/rehearing with MAHS. As such, the hearing request for the SDA benefit case is, therefore, **DISMISSED**.

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 allowed Petitioner's FAP benefit case to expire as of January 31, 2019. Accordingly, the Department's decision is **AFFIRMED**.

Petitioner's Request for Hearing related to his SDA benefit case is **DISMISSED**.



EM/

Ellen McLemore
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

Montrece White
MDHHS-Macomb-20-Hearings

Petitioner

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