

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-022190
Issue No.: 3001; 3003
Agency Case No.: [REDACTED]
Hearing Date: January 19, 2016
County: WAYNE-DISTRICT 55

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 19, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by Derek Ogilvie, Assistant Payment Worker.

ISSUE

Did the 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 is an ongoing recipient of FAP benefits; however, she did not receive any benefits from, or around September 1, 2015 to October 31, 2015.
2. Petitioner was issued FAP benefits effective November 1, 2015, ongoing.
3. On November 16, 2015, Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

Preliminary matters

First, Petitioner and the Department began disputing her Medical Assistance (MA) benefits. However, a review of Petitioner's hearing request only finds that she disputed her FAP benefits. See Exhibit A, pp. 2-3. As such, the undersigned lacks the jurisdiction to address Petitioner's dispute with her MA benefits. See BAM 600 (April 2015 and October 2015), pp. 1-6. Petitioner can request another hearing if she disputes her MA benefits. See BAM 600, pp. 1-6.

Second, Petitioner also requested that the undersigned assign her a new caseworker. However, the undersigned lacks any such jurisdiction to assign Petitioner a new caseworker. See BAM 600, pp. 1-6.

Third, as part of the evidence record, the Department was going to fax to the undersigned, subsequent to the hearing, Petitioner's Benefits Summary Inquiry as Exhibit B for the record. This document shows the benefits periods in which Petitioner received any issuance of FAP benefits. However, the undersigned did not receive the document requested. As such, Exhibit B is not admitted into the evidence record.

FAP benefits

In this case, Petitioner is an ongoing recipient of FAP benefits; however, she did not receive any benefits from, or around September 1, 2015 to October 31, 2015.

For September 2015, the testimony appeared to indicate that Petitioner did not receive any benefits for this month because of a failure to comply with the verification requirements. The dispute between both parties as to why Petitioner's benefits closed was based on a verification request by the Department for income. See Exhibit A, p. 1. Despite the verification issue by both parties, the Department improperly closed the benefits because it failed to provide Petitioner with timely notice of her case closure.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case

action. BAM 220 (July 2015 and October 2015), p. 2. A positive action is a Michigan Department of Health & Human Services (MDHHS) action to approve an application or increase a benefit. BAM 220, p. 1. A negative action is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. There are two types of written notice: adequate and timely. BAM 220, p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). BAM 220, p. 2. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 4. The action is pending to provide the client a chance to react to the proposed action. BAM 220, p. 4.

Based on the foregoing information and evidence, the Department improperly closed Petitioner's FAP benefits for September 2015. The Department failed to present any evidence that it issued Petitioner a Notice of Case Action (case action) notifying her of the case closure effective September 1, 2015. Because the Department failed to send Petitioner any case action of her case closure, it improperly closed her FAP benefits in accordance with Department policy. See BAM 220, pp. 1-4.

For October 2015, the testimony appeared to indicate that Petitioner did not receive any benefits for this month, again based on a verification issue for income. But this time the verifications were with her redetermination. The Department's Hearing Summary indicated that the documents were to be turned in for a September 2015 redetermination. See Exhibit A, p. 1 (Hearing Summary).

A complete redetermination is required at least every 12 months. BAM 210 (July 2015 and October 2015), p. 1. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210, p. 2. A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10. Exception: For FIP, SDA and FAP only, if any section of the redetermination/review packet has not been completed but there is a signature, consider the redetermination/review complete. BAM 210, p. 10 (October 2015 only). Complete any missing sections during the interview. BAM 210, p. 10 (October 2015 only). When a complete packet is received, record the receipt in Bridges as soon as administratively possible. BAM 210, p. 10. If the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 11. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 11.

Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, pp. 14-15. Note, the DHS-3503, Verification Checklist (VCL), should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, pp. 14-15.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it properly closed Petitioner's FAP benefits for October 2015. See BAM 210, pp. 1-15. Petitioner did reference a VCL during her testimony with a due date of September 8, 2015, however, no such VCL was presented by the Department as part of the evidence record. See BAM 210, p. 15. In fact, the Department did not provide any evidence in which the undersigned could determine whether Petitioner's benefits were properly closed for both September 2015 and October 2015. The Department did not present a Notice of Case Action, a Redetermination, or a VCL. The burden lies on the Department to show that it properly closed Petitioner's FAP benefits in accordance with Department policy. Moreover, the undersigned is actually unsure if Petitioner's benefits closed effective September 1, 2015 because there was no documentation presented to confirm Petitioner's lapse in coverage (i.e., Benefits Summary Inquiry).

In summary, the Department failed to satisfy its burden to show that it properly closed Petitioner's benefits and it will reinstate and issue supplements to Petitioner for any benefits she was eligible to receive but did not from September 1, 2015, ongoing. It should also be noted that the Department's Hearing Summary also stated that Petitioner's case is being re-processed and it was incorrectly denied for FAP benefits. See Exhibit A, p. 1 (Hearing Summary).

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 did not act in accordance with Department policy when it closed Petitioner's FAP benefits effective September 1, 2015, ongoing.

Accordingly, the Department's FAP 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. Reinstate Petitioner's case as of September 1, 2015;
2. Issue supplements to Petitioner for any benefits she was eligible to receive but did not from September 1, 2015, ongoing; and

3. Notify Petitioner of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/20/2016**

Date Mailed: **1/20/2016**

EF / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc: [REDACTED]
Wayne-District 55 (Hamtramck)/ 1843
BSC4-HearingDecisions
Michelle Holden
Dawn Sweeney
Eric Feldman
MAHS