

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-15136
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 1, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on Monday, April 1, 2013, from Detroit, Michigan. Claimant appeared and testified. [REDACTED] served as an interpreter. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Specialist.

ISSUES

Did the Department act in accordance with Department policy when it denied Claimant's application for Food Assistance Program (FAP) benefits due to a failure to provide required verifications?

FINDINGS OF FACT

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

1. On September 6, 2012, Claimant submitted an application for FAP benefits.
2. On October 4, 2012, the Department sent Claimant a Verification Checklist (VCL) for which Claimant was required to submit requested verifications by October 15, 2012. (Exhibit 1)

3. On October 5, 2012, the Department sent Claimant a Food Assistance Application Notice, denying his application for FAP benefits for failure to verify requested information but notifying him that if he submitted the documents within 60 days, his application would be reprocessed and he would receive benefits prorated from the date of compliance. (Exhibit 2)
4. On November 30, 2012, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] was established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (May 2012), p.1. To request verification of information, the Department sends a Verification Checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3. FAP clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, p.5. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 5.

In this case, Claimant applied for FAP benefits on September 6, 2012 and an initial interview was completed at that time. The Department sent Claimant a VCL on October 4, 2012 in connection with his September 6, 2012 application for FAP benefits. (Exhibit 1). Verification of Claimant's checking account information, identification, and alien status was due by October 15, 2012. (Exhibit 1). On October 5, 2012, just one day after it sent the VCL and ten days before the VCL was due, the Department sent Claimant a DHS-1150, Food Assistance Application Notice, denying his application for FAP benefits. (Exhibit 2). There was no evidence presented to establish that Claimant refused to provide verification, nor did the time period given to provide the verification elapse prior to the October 5, 2012 Food Assistance Application Notice of denial being sent as required by BAM 115 and BAM 130. Because the Food Assistance Application Notice denying Claimant's applications was sent prior to October 15, 2012 when Claimant's verifications were due, the Department did not act in accordance with

Department policy when it denied Claimant's application for FAP benefits for failure to provide required verifications.

At the hearing, the Department testified that the time for Claimant to comply with the verification request was extended from 30 days to 60 days, with benefits being prorated from the date of application; however, no evidence was presented to establish that a VCL was sent to Claimant prior to the one sent on October 4, 2012. The Food Assistance Application Notice did not serve to extend Claimant's time to respond to the VCL. Rather, it informed him of Department policy concerning verifications that were received 30 or more days after the due date. See BAM 115 (January 2013), pp.18-19. The Notice informed Claimant that the FAP benefits for the first 30 days from his application date had been denied for failure to complete the interview requirement and/or provide required verifications but if he provided the verifications within 60 days, his FAP benefits, if otherwise eligible, would be prorated from the date of compliance, not the date of application, as the Department testified. (Exhibit 2). According to BAM 115, the FAP begin date depends on the group's eligibility and whether the 30-day standard of promptness (SOP) has been met. When the 30-day SOP is met, or it is not met but the group is not at fault for the delay, the begin date is either of the following: the application date if the group is eligible for the application month (even if proration causes zero benefits) or the first day of the month after the application month if that is when the group becomes eligible. BAM 115, pp. 21-22.

Accordingly, the Department's actions are REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it denied Claimant's application for FAP benefits. Therefore, the Department's FAP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's September 6, 2012 application for FAP benefits;
2. Begin reprocessing the FAP application in accordance with Department policy;
3. Begin the issuance of supplements for any FAP benefits that Claimant was entitled to receive but did not from September 6, 2012, ongoing; and

4. Notify Claimant of its decision in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 9, 2013

Date Mailed: April 9, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

