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

IN THE MATTER OF:



Reg. No.: 2013-16068

Issue No.: 3008

Case No.: Hearing Date: January 17, 2013

County: Macomb-20 County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on January 17, 2013, from Lansing, Michigan. Participant s on behalf of Claim ant included Participants on behalf of Department of Human Services (Department) included

ISSUE

Due to a failure to comply with the ve rification requirements, did the Department properly close Claimant's case for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantia I evidence on the whole record, including testimony of witnesses, finds as material fact:

- 1. As of November 5, 2012, the Claimant was receiving FAP benefits.
- 2. On November 5, 2012, the Claimant participated in a phone interview with the Department.
- 3. On or around Novem ber 5, 2012, the Department contacted the Office of Inspector General (OIG) regarding the Claimant. The Depart ment contacted the OIG because, during the interview, the Departm ent questioned som e of the inf ormation the Claimant provided.
- 4. On November 14, 2012, the Department sent the Claimant a verification checklist.
- 5. On November 27, 2012, the Department closed the Claimant's FAP case.

- 6. On November 28, 2012, the November 14, 2012 verification checklist was returned to the Department as undeliverable.
- 7. On December 10, 2012, the Claimant requested a hearing.

CONCLUSIONS OF LAW

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

The FAP [formerly known as the Food Stamp (F S) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in T itle 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 1999 AC, R 400.3001 through Rule 400.3015.

Clients have the right to contest a Departm ent decis ion affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to rev iew the decision and determine the appropriateness of that decision. (BAM 600).

Department policy indicates that clients must cooperate with the loca of loffice in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clied nts who are able to but refuse to provide necessary information or take a required action are subject to penalties. (BAM 105).

The Department is to prov ide the Claimant with 10 c alendar days to comply with the verification request and should send a n egative action notice when the Claimant 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).

Because t he Claimant never received the verification and there was no first hand testimony regarding the activities of the OI G Agent, I find the Claimant nev er received proper notice and therefore ne ver refused to provide ve rification or was given an opportunity to provide the requested information.

Accordingly, I find evidence to **reverse** the Department in this matter as policy does not allow the Department to take a negative action absent a showing of a refusal to provide information or failure to make a reasonable effort to provide information.

DECISION AND ORDER

I find, bas ed upon the above Findings of Fa ct and Conclusions of Law, and for the reasons stated on the record, the Department did not act properly.

Accordingly, the Depar tment's decision is **REVERSED** for the reasons stated on the record.

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

1. Initiate a redetermination as t o the Claimant's eligibility for FAP benefits beginning November 27, 2012 and issue retroactive benefits if otherwise eligible and qualified.

/s/

Corey A. Arendt Administrative Law Judge For Maura Corrigan, Director Department of Human Services

Date Signed: January 17, 2013

Date Mailed: January 17, 2013

NOTICE: Michigan Administrative Hearing S ystem (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the receipt date of this Dec ision and Orde r. MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 <u>MAY</u> 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, math ematical error, or other obvious errors in the he aring 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

consideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

2013-16068/CAA

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