

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-33640
Issue No.: 3008, 5000
Case No.: [REDACTED]
Hearing Date: April 8, 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 Claimant's request for a hearing. After due notice, a telephone hearing was held on April 4, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Participants on behalf of Department of Human Services (Department) included [REDACTED]

ISSUE

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

Did the Department fail to pay the Department's share of the Claimant's State Emergency Relief (SER) request?

FINDINGS OF FACT

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

1. As of January 23, 2013 the Claimant was receiving FAP benefits.
2. On January 23, 2013 the Department provided the Claimant with a verification checklist. The verifications were due by February 4, 2013.
3. On February 4, 2013 the Claimant left a voice message with the Department indicating he was unable to retrieve verification of his employment ending.
4. On February 7, 2013, the Claimant applied for SER seeking water/sewage relief.
5. On February 25, 2013, the Department approved the Claimant's SER application with a copayment amount of \$ [REDACTED] and a Department share of \$ [REDACTED]. Verification of the Claimant's co-payment being paid was due back to the Department by March 21, 2013 before the Department paid their share.

6. On March 6, 2013, the Claimant requested a hearing.
7. As of March 21, 2013, the Department had not yet paid their share of the Claimant's SER request.

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 regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903(1). A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1).

The Bridges Administrative Manual (BAM) 600, p. 4, 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.

Because the SER issue was raised prior to the Department failing to act, I lack the necessary authority and jurisdiction to address this issue and will not address it. The request for hearing on this issue was premature. If the Claimant still has an issue with the Department's failure to pay their share, the Claimant is encouraged to file a new hearing request in regards to that issue.

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 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 1999 AC, R 400.3001 through Rule 400.3015.

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

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clients 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 provide the Claimant with 10 calendar days to comply with the verification request and should send a negative 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).

Furthermore, the Department should not deny eligibility due to failure to cooperate with a verification request by a person **outside** the group. (BAM 105).

In this case, the Department was looking for verifications that the Claimant's employment had ended. The Claimant timely responded to the Department's request and indicated he was having trouble obtaining the requested verifications. Immediately thereafter, the Department alleged to have sent out a verification of employment form to the Claimant. The Claimant testified he did not receive the verification of employment form and the Department's exhibit does not reflect a mailing address in the mailbox window of the form. Therefore, I find that more likely than not, the Department did not send the verification properly resulting in the Claimant not receiving it and thereby preventing the Claimant from returning the requested verifications. Furthermore, the Department CANNOT close a Claimant's FAP case where a third party fails to cooperate (former employer).

For the above reasons and the reasons stated on the record, I am reversing the Department's actions to close the Claimant's FAP case.

Accordingly, the Department's actions in this matter are reversed.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did not act properly.

Accordingly, the Department's FAP decision is **REVERSED** and the Claimant's SER issue is DISMISSED.

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 to the Claimant's eligibility for FAP benefits beginning April 1, 2013 and issue retroactive benefits if otherwise eligible and qualified.



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

Date Signed: April 8, 2013

Date Mailed: April 8, 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 receipt 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

CAA/las

cc:

