

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-33890
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 3, 2013
County: Oakland (02)

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 April 3, 2013, from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) were [REDACTED], Assistance Payment Supervisor, and [REDACTED] Assistance Payment Worker.

ISSUE

Did the Department act in accordance with Department policy when it closed Claimant's Food Assistance Program (FAP) case?

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. Claimant was an ongoing recipient of FAP benefits.
2. On January 15, 2013, the Department sent Claimant a Redetermination that was to be completed and returned on or before February 5, 2013. (Exhibit 1)
3. On January 25, 2013, Claimant returned the completed Redetermination to the Department.
4. A telephone interview was scheduled for February 5, 2013 at 1:30 p.m. (Exhibit 1)

5. The telephone interview scheduled for February 5, 2013 was not conducted.
6. On February 5, 2013, the Department sent Claimant a Notice of Missed Interview.
7. On February 28, 2013, the Department closed Claimant's FAP case.
8. On March 11, 2013, the Department sent Claimant a Verification Checklist (VCL) for which Claimant was required to submit requested income verifications by March 21, 2013.
9. On March 21, 2013, Claimant submitted income verifications.
10. On March 11, 2013, Claimant filed a hearing request, disputing the Department's actions.

CONCLUSIONS OF LAW

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

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. The Department, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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 Mich Admin Code, Rule 400.3001-3015.

MA

Claimant requested a hearing with regards to her FAP case and MA coverage for her two sons. At the hearing, the Department testified that Claimant's two sons are receiving ongoing MA coverage. A review of the Eligibility Summary also confirms that Claimant's sons have active and ongoing MA coverage (Exhibit 2, p.10). Claimant was satisfied with this action and no longer wished to have this issue addressed at the hearing. The hearing proceeded with respect to the FAP issue.

FAP

The Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (November 2012), p 1. A client must complete a redetermination at

least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210, p. 1. 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. At redetermination, FAP clients must provide verifications by the end of the benefit period or within ten days after they are requested, whichever is later. BAM 130, p. 5; BAM 210, p. 12.

At the hearing, the Department acknowledged that there were certain errors in the processing of Claimant's case. The Department did not act in accordance with Department policy when it failed to conduct a telephone interview after timely receiving Claimant's redetermination; however, the Department attempted to remedy this error by changing the status of Claimant's case from "closed" to "pending" as evidenced by the Eligibility Summary and by sending Claimant a VCL on March 11, 2013. (Exhibit 2, p. 17). Claimant was required to submit requested income verifications by March 21, 2013. On March 21, 2013, Claimant submitted pay stubs from January 25, 2013, February 8, and March 15, 2013. However, the pay stubs did not have the name of Claimant's employer on them. The Department called Claimant's employer to verify her employment and to confirm the income received in the pay stubs provided. The Department was able to verify that Claimant was an employee; however, the employer would not verify the income reported by Claimant's pay stubs and the Department was instructed to fax a request. Further, the Department testified that the pay stubs Claimant submitted on March 21, 2013 in response to the VCL were insufficient because she was paid on a weekly basis and the income verification should be for the month of January 2013, as the Redetermination was for the month of February 2013.


The Department is not to deny or terminate assistance because an employer or other source refuses to verify income. BEM 501 (December 2011), p. 7. See also BAM 130, p.2. Additionally, if neither the Claimant nor the Department can obtain verification despite a reasonable effort, the Department is to use the best available information. BAM 130, p.3. Here, based on the best available information from paychecks submitted by Claimant and the verification from Claimant's employer, the Department should be able to determine the income Claimant earned and reprocess her redetermination.

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 closed Claimant's FAP case for failure to verify requested information. Accordingly, 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. Reinstate Claimant's FAP case effective March 1, 2013 in accordance with department policy;
2. Begin reprocessing Claimant's redetermination and verifications in accordance with Department policy and consistent with this hearing decision;
3. Begin issuing supplements to Claimant for any FAP benefits that she was entitled to receive but did not from March 1, 2013, 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 11, 2013

Date Mailed: April 11, 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 affect the substantial rights of the claimant:
 - failure of the ALJ to address other relevant issues in the hearing decision.

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

ZB/cl

cc:

