

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201341882  
Issue No: 3008  
Case No: [REDACTED]  
Hearing Date: May 16, 2013  
County: Washtenaw (20)

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on May 16, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's Authorized Hearing Representative (AHR)). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager).

**ISSUES**

Whether the Department properly closed Claimant's Food Assistance Program (FAP) case for failure to timely provide verifications?

**FINDINGS OF FACT**

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

1. Claimant was receiving FAP at all relevant time periods.
2. On March 21, 2013, the Department mailed Claimant a Verification Checklist (DHS-3050), which requested verifications by April 1, 2013.
3. Claimant provided all requested verifications by the April 1, 2013 due date.
4. On April 4, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case due to failure to comply with the verification requirements.
5. On April 15, 2013, Claimant requested a hearing to dispute the FAP closure.

## CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify: (1) the action being taken by the department; (2) the reason(s) for the action; (3) the specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following: (1) denial of an application and/or supplemental payments; (2) reduction in the amount of program benefits or service; (3) suspension or termination of program benefits or service; (4) restrictions under which benefits or services are provided; (5) delay of any action beyond standards of promptness and (6) for FAP only, the current level of benefits or denial of expedited service. BAM 600.

The Department local office has 15 (fifteen) days from receipt of hearing request to do **all** of the following: (1) log the request; (2) contact the client or authorized hearing representative; (3) obtain and submit to MAHS verification of the authorized hearing representative's prior authorization, if needed; (4) arrange a prehearing conference<sup>1</sup> including all appropriate staff; (5) determine the nature of the complaint; and (6) forward the request with either a DHS-18A, Hearing Request Withdrawal, or a DHS-3050 to MAHS so that MAHS receives them by the 15 (fifteenth) day.

Policy requires the Department resolve disagreements and misunderstandings quickly at the lowest possible level to avoid unnecessary hearings. BAM 600. Upon receipt of a hearing request, the Department should schedule a prehearing conference with the client or authorized hearing representative and conduct a supervisory review. BAM 600 at page 12. The client or authorized hearing representative is not required to phone or meet with any Department staff in order to have a hearing and any notice of prehearing conference must explain this. See BAM 600 page 12.

---

<sup>1</sup> The conference need not be **held** within the 15 day standard.

Upon receipt of the hearing request from the hearings coordinator, the Department's first-line supervisor reviews the disputed case action for accuracy according to policy and fact and determines if the request is timely. BAM 600 at page 12.

Department policy elaborates about the importance of conducting a prehearing conference. See BAM 600 pages 12 and 13. The policy provides that the Department must assure that clients receive the services and assistance to which they are entitled. BAM 600. Concerns expressed in the hearing request should be resolved whenever possible through a conference with the client or authorized hearing representative rather than through a hearing. BAM 600.

A formal prehearing conference must take place as soon as possible after the local office receives the request unless: (1) the client or authorized hearing representative chooses not to attend the prehearing conference; or (2) a conference was held prior to receipt of the hearing request, and the issue in dispute is clear, and DHS staff fully understand the positions of both the department and the AHR or, if none, the client. BAM 600 p 13. All appropriate staff (for example, first-line supervisor, child support specialist, PATH representative, FIS/ES or OIG) must be consulted before the prehearing conference and should attend, as necessary. BAM 600 p 13.

When the Department conducts a prehearing conference, the Department must do all of the following: (1) determine why the client or authorized hearing representative is disputing the DHS action; (2) review any documentation the client or authorized hearing representative has to support his allegation; (3) explain the department's position and identify and discuss the differences; (4) determine whether the dispute can be resolved locally or requires MAHS to resolve; (5) mention to clients the availability of reimbursement for child care or transportation costs incurred in order to attend the hearing. BAM 600 p 13.

**If the local office determines that the case action needs correction, the Department should do the following: (1) update Bridges with the corrected information including corrected Circumstance Start Change Date (CSCD) dates<sup>2</sup>; (2) for Interim Assistance Recovery disputes, central office payment reconciliation staff will process corrective payments and for state SSI Payments, central office SSI Payments Unit staff will process corrective payments; (3) send a new case action notice to the client and AHR; (4) notify MAHS that the disputed action has been corrected and that the client's concerns have been resolved; (5) MAHS must have **all** the following documentation to deny hearing requests without a signed client withdrawal: (1) the hearing request with the signature of the AHR or, if none, the client and (2) a short summary of the actions the local office took to correct **all** of the client's concerns (a DHS-3050 may be used). BAM 600.**

MAHS will send the client and AHR a letter stating that the hearing request is dismissed because there is no longer any basis for a hearing. However, the hearing will **not** be dismissed if the client or authorized hearing representative claims that the local office failed to correct all the disputed actions. BAM 600 p 14.

---

<sup>2</sup> Any benefits owed will be issued when EDBC and certification is completed.

Policy also provides administrative review process. The local office manager or designee must review all hearing requests which are **not** resolved by the first-line supervisor. The purpose of the review is to assure that local office staff has done the following: (1) applied DHS policies and procedures correctly; (2) explained DHS policies and procedures to the AHR or, if none, the client; (3) explored alternatives; (4) offered appropriate referrals to the client; and considered requesting a central office policy clarification or policy exception, if appropriate. . BAM 600.

The local office manager or designee must evaluate the advisability of a hearing in relation to such factors as intent of policy, type of issue(s) raised, strength of the department's case, and administrative alternative. BAM 600. The local office manager is accountable for the decision that a hearing request **cannot** be resolved except through formal hearing. BAM 600. The administrative review does **not** replace the hearing process. BAM 600. The hearing must be held as scheduled **unless** the department deletes the negative action **or** the client or authorized hearing representative withdraws the hearing request. BAM 600.

For each hearing not resolved at a prehearing conference, the Department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. BAM 600. The DHS-3050 narrative must include **all** of the following: (1) clear statement of the case action, including all programs involved in the case action; (2) facts which led to the action; (3) policy which supported the action; (4) correct address of the AHR or, if none, the client; and (4) description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

Claimant's request for a hearing in the instant matter concerns the Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program), which 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 of Human Services (DHS or Department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (BRM).

In the instant matter, Claimant requested a hearing because the Department closed her FAP for failure to timely and/or properly submit requested verifications. However, the Department's hearing summary indicates the following "04/04/13, FAP closed due to failure to provide postponed verifications for expedited food stamps. The assigned worker learned that the verifications were returned timely and the case was reinstated for determination of continued food benefit. [sic]" The hearing summary further provides that later on April 19, 2013, Claimant's FAP was "denied" due to excess assets.

There are a myriad of problems associated with this case. First, although the Department concedes it improperly closed Claimant's FAP case due to failure to return verifications, the Department has failed to provide evidence that Claimant's FAP case was reinstated. This should have been included in the hearing packet. Second, there is no evidence in the hearing packet to support the Department's assertion that Claimant's FAP case was (or should be) closed due to excess assets. There are no documents

detailing what assets Claimant has that would give rise to a finding that she or her household exceeds the Department's asset test.

The Department's Hearing Summary (DHS-3050) does not comply with the requirements set forth in BAM 600. Based on the lack of documentation, this Administrative Law Judge finds that the Department improperly closed Claimant's FAP case for failure to return verifications. The substantial, material and competent evidence in this matter shows that Claimant did turn in the requested verifications. The Department has failed to carry its burden of proof with regard to its assertion that Claimant's FAP case should close due to excess assets due to lack of evidence.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted improperly when it closed Claimant's FAP case.

Therefore, the Department's FAP determination is **REVERSED**.

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

- Initiate a reinstatement and redetermination of Claimant's FAP case back to the date of closure.
- Provide Claimant with retroactive and/or supplemental FAP benefits to the extent required by policy.

IT IS SO ORDERED.

/s/  
C. Adam Purnell  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: May 20, 2013

Date Mailed: May 21, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

201341882/CAP

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

CAP/aca

cc:

