

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

IN THE MATTER OF:



Reg. No.: 2013-51373
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 1, 2013
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 July 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to failure to provide verification of her son's employment?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FAP benefits.
2. On February 28, 2013, the Department sent Claimant a New Hire Client Notice requesting employment information by March 11, 2013, concerning her son's employment with [REDACTED].
3. On March 19, 2013, Claimant returned the completed New Hire form and one of the son's weekly employment paystubs.
4. On April 17, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting 30 days' verification of the son's income between March 7, 2013, and April 5, 2013, in the form of the last 30 days of check stubs, an employment

statement or a completed Verification of Employment (VOE) (DHS-38) form. The Department included a DHS-38 with the VCL.

5. Claimant did not respond to the VCL.
6. On April 30, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP case was closing effective May 1, 2013, because she had failed to verify requested information.
7. On May 30, 2013, Claimant filed a request for hearing disputing the Department's action.

CONCLUSIONS OF LAW

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

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, R 400.3001 through R 400.3015.

Additionally, on April 30, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP case was closing effective May 1, 2013, because she had failed to verify requested information. At the hearing, the Department established that, because it did not receive 30 days' income verification with the New Client Hire Notice Claimant returned to the Department on March 19, 2013, it sent Claimant an April 17, 2013, VCL requesting verification of her son's employment by April 29, 2013, and specified that it was seeking verification of his income between March 7, 2013, and April 5, 2013. Claimant did not respond to the VCL. At the hearing, Claimant denied receiving the VCL. However, the Department established that the VCL was printed from its automated system in Lansing and sent to Claimant to the address on file in the ordinary course of business. Based on the evidence at the hearing, Claimant failed to rebut the presumption that she received the VCL. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). Thus, the Department acted in accordance with Department policy when it closed Claimant's FAP case for failure to provide requested verifications.

However, the action resulting in the closure of Claimant's FAP case required that the Department provide timely notice of the action. See BAM 220 (November 2012), pp. 2-4. A timely notice is mailed at least 11 days before the intended negative action takes effect in order to provide the client a chance to react to the proposed action. BAM 220, pp. 3-4. In this case, the Department sent Claimant a Notice of Case Action on April 30,

2013, closing her FAP case for May 1, 2013, ongoing. Timely notice of the case closure would have resulted in closure of Claimant's case for June 1, 2013, ongoing. Thus, the Department did not act in accordance with Department policy when it failed to provide timely notice of Claimant's FAP case closure.

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 acted in accordance with Department policy when it closed Claimant's FAP case but did not act in accordance with Department policy when it failed to provide timely notice of the case action.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the closure of Claimant's FAP case AND REVERSED IN PART with respect to the Department's failure to provide timely notice of the FAP closure.

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

1. Issue a supplement to Claimant for FAP benefits she was eligible to receive for May 2013 based on timely notice of the case closure being provided.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 3, 2013

Date Mailed: July 3, 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

ACE/pf

cc:

