

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53283
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 17, 2013
County: Wayne (82-19)

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 17, 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?

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 March 13, 2013, Claimant completed his FAP redetermination.
3. The Department requested verification of employment concerning Claimant's living-together-partner (LTP).
4. On June 6, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP case closed effective April 1, 2013, because his group's net income exceeded the applicable FAP net income limit and verification of earned income was not received from the LTP.

5. On June 17, 2013, Claimant requested a hearing disputing the Department's closure of his FAP case.

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, following a FAP redetermination, the Department sent Claimant a June 6, 2013, Notice of Case Action notifying him of the closure of his FAP case effective April 1, 2013, because he had failed to verify his LTP's earned income and because his group's net income exceeded the applicable FAP net income limit.

At the hearing, Claimant credibly testified that the LTP had two employers, part-time employment for 20 hours a week with [REDACTED] and sporadic employment with [REDACTED]. The Department sent Claimant a Verification of Employment form seeking verification of the LTP's employment. Claimant credibly testified that he provided Claimant's paystubs for [REDACTED] but, because the paystubs were not for consecutive pay periods, he believed the Department requested verification of employment regarding the LTP's [REDACTED] employment. Claimant testified that he left messages with [REDACTED] but no one returned his calls. The Department presented a Verification of Employment (VOE) form that it sent to a fax number that Claimant identified was for [REDACTED]. The Department acknowledged that it did not receive a response. The Department may not deny or terminate assistance because an employer refuses to verify income. BEM 501 (December 2011), p. 7. Thus, the Department could not rely on Claimant's failure to provide verification of the LTP's employment at [REDACTED] to close his FAP case. Department policy provides that if neither the client nor the Department can obtain verification despite a reasonable effort, the Department must use the best available information. BAM 130 (May 2012), p. 3. In this case, Claimant credibly testified that he explained to the Department that the LTP's employment with [REDACTED] was sporadic, that she only got paid when she accepted a temporary job, and that her income at [REDACTED] for the two months at issue was \$13.16. Because neither Claimant nor the Department was able to obtain the LTP's employment information from [REDACTED] and Claimant had explained to the Department the reason that there were not paystubs showing 30 consecutive days of employment for the LTP's employment with [REDACTED], the Department did not act in accordance with Department policy when it closed Claimant's FAP case for failure to provide verification of the [REDACTED] employment rather than rely on the best available information.

Although the Department testified at the hearing that it also needed verification of Claimant's employment income from [REDACTED], the Department was unable to establish that it requested verification of employment concerning the LTP's employment with [REDACTED]. The Department must tell the client what verification is required, how to obtain it, and the due date, using the DHS-3503, Verification Checklist (VCL). BAM 130, pp. 2-3. In this case, the only VCL presented by the Department identified the employer at issue as "Employer." It was Claimant's understanding that the Department had access to Claimant's employment income from [REDACTED] and that its request for employment verification concerned [REDACTED], not [REDACTED]. Because the Department did not establish that it requested the LTP's income information from her employment at [REDACTED], the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case for failure to verify to the extent it relied on Claimant's failure to verify the LTP's employment with [REDACTED].

The June 6, 2013, Notice of Case Action closing Claimant's FAP case also indicated that Claimant's group's income exceeded the applicable income limit. At the hearing, the Department was unable to identify the basis for the \$760 in earned income shown on the budget in the Notice. Thus, it failed to satisfy its burden of showing that it acted in accordance with Department policy in calculating the earned income.

Further, a review of the budget on the Notice of Case Action shows that no medical expenses were considered in the calculation of Claimant's monthly net income. As a senior/disabled/veteran (SDV) member of the FAP group, Claimant is eligible for a deduction for the non-reimbursable, verified, allowable medical expenses in excess of \$35. BEM 554 (October 2012), pp. 1, 6, 9. At redetermination, the Department is required to estimate an SDV person's medical expenses for the benefit period based on verified allowable medical expenses, available information about the SDV member's medical condition and health insurance, and changes that can reasonably be anticipated to occur during the benefit period. BEM 554, p. 6. At the hearing, the Department confirmed that Claimant included medical expenses with his redetermination, but the budget shows that these expenses were not considered in the calculation of his net income. The Department did not act in accordance with Department policy when it failed to estimate Claimant's monthly medical expenses in calculating his net income.


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 when it closed Claimant's FAP case.

Accordingly, the Department's 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 April 1, 2013;
2. Begin reprocessing Claimant's FAP redetermination in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from April 1, 2013, ongoing; and
4. Notify Claimant of its decision in accordance with Department policy.



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

Date Signed: July 22, 2013

Date Mailed: July 22, 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,
 - 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

2013-53283/ACE

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

