

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

IN THE MATTER OF:



Reg. No.: 2013-56282
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 1, 2013
County: Oakland (63-02)

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 August 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. 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 for failure to verify employment income?

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 April 12, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting missing paystubs by April 22, 2013.
3. The Department did not receive the requested verifications.
4. On June 21, 2013, the Department sent Claimant a Notice of Case Action notifying him that effective August 1, 2013, his FAP case would close due to his failure to provide the requested paystubs.

5. On July 10, 2013, Claimant requested a hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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

In connection with a redetermination, the Department sent Claimant an April 12, 2013, VCL requesting missing check stubs. When the Department did not receive the requested documentation, it sent Claimant a Notice of Case Action closing his case effective August 1, 2013. The Department sends a negative action notice concerning FAP when (1) the client indicates refusal to provide a verification, or (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 (May 2012), p. 5.

In this case, Claimant and his father credibly testified that they had gone on at least three occasions to the office of the temporary employment agency which had employed Claimant and, on each occasion, the agency advised them that employment information had been faxed to the Department but refused to give them copies of the documents faxed or a fax confirmation sheet. Claimant's father further credibly testified that he had contacted the Department on various occasions to ask if the faxes were received but never received a response. The Department may not terminate assistance because an employer or other source refuses to verify income. BEM 501 (December 2011), p. 7. When neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information, or, if no evidence is available, its best judgment. BAM 130 (May 2012), p. 3.

Under the facts in this case, where Claimant had made a reasonable effort to provide the requested verifications and was unable to do so, the Department did not act in accordance with Department policy when it closed Claimant's FAP case.


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.

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



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

Date Signed: August 6, 2013

Date Mailed: August 7, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

2013-56282/ACE

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

ACE/pf

cc:

