

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 2014 534
Issue No.: 3008, 2006
Case No.: ██████████
Hearing Date: October 24, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Lynn M Ferris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Program (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for received:
 FIP FAP MA AMP SDA CDC
benefits.
2. Claimant was required to submit requested verification at the redetermination of the closure of a savings account and verification of Claimant's son's income

██████████ who was a disqualified FAP group member based on student status and not working at least 20 hours per week. This disqualification began in November 2011. At the time of the redetermination the Claimant's son ██████████ was 22 years of age.

3. The Verification regarding Claimant's son's income was not submitted although Claimant did explain why she could not do so. (Exhibit 4) The Claimant did provide bank account information to the Department showing the last available statement for her savings account with a zero balance before the August 26, 2013 due date. (Exhibit 2)
4. On November 1, 2013, the Department
 - denied Claimant's application.
 - closed Claimant's case.
 - reduced Claimant's benefits.
4. On (date unknown), the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On September 17, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a timely hearing request, protesting 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 program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, in this case the issue is whether the Department properly sought verification of Claimant's 22-year-old son's income at redetermination and whether the Claimant's attempts to provide information relative to the closure of the savings account complied with the verification requirements contained in BAM 130 (7/1/13).

The Department closed the Claimant's Food Assistance case for failure to provide income information pursuant to a verification checklist sent regarding Claimant's 22-year-old son ██████████). The Claimant explained to the Department that her son is not a dependent that she claims on her income taxes, he files his own income tax return, does not contribute to the family expenses and did not purchase or prepare food with the Claimant. Additionally the Department's hearing summary

indicated that the Claimant's son had been previously disqualified as a FAP group member due to his student status since November 20, 2011 due to the fact that he was not working at least 20 hours a week. The online application that the Claimant filed did not indicate that the Claimant's son purchased and prepared food with the family. Exhibits 5 and 6. Policy contained in BEM 212 provides that a person 22 or older is not a mandatory group member. BEM 212 pp. 12 (7/1/13). The Department did not seek and made no inquiry with regard to whether the Claimant's son was a group member and had the wrong information regarding the son's age through no fault of the Claimant.

Based upon the evidence produced at the hearing, it is determined that the Department had no basis to seek verification of the son's income prior to determining whether or not the Claimant's son [REDACTED] was a group member. Furthermore, the Department's argument that the income was necessary to make a recoupment determination was not supported by the facts as the Claimant's son was disqualified from receiving food assistance since November 2011, and thus, his income, if any, could not have been included when determining Claimant's FAP benefits for the period her son was not a group member. To the extent that the Department closed the Claimant's case on the basis of failure to provide verification of [REDACTED] income, the Department erred and acted contrary to Department policy. The Department was to fax the Notice of Case Action to the undersigned after the hearing but the notice was never received.

As regards the Claimant's failure to provide verification of a closed savings account, it is determined that the Department incorrectly closed Claimant's food assistance benefits in error as it is found that the Claimant did not refuse to cooperate, consistently attempted to obtain the necessary information, and provided the Department with the last statement where the savings account showed up with the zero balance before the verification due date. Claimant Exhibit 1, pp. 1-17. To the extent that any discrepancy still remained, the Department needed to allow further reasonable effort by the Claimant which in this case was not necessary, or seek a collateral contact on Claimant's behalf with the bank in question. The Claimant credibly testified that she closed her account in January 2012 and testified under oath to that fact. Further the verification provided indicated that as of April 2012 the account balance for the savings account was zero. No Savings account information showed up after April, only current checking information showed on the statement. Given these two items of evidence it is determined that the Department had sufficient evidence to make a determination based on the best available evidence that the account was closed. At no time did the Department assist the Claimant or offer to make a collateral contact. The Claimant sent the Department numerous emails and uploaded documents attempting to substantiate the zero balance in the account. The Claimant also spent several hours at her bank to no avail to get a statement that the account was closed. Under these circumstances it cannot reasonably be determined that the Claimant refused to cooperate. BAM 130 provides:

Send a negative action notice when:

- The client indicates refusal to provide a verification, **or**

- The time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130 pp.6, (7/1/13).

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any finds that the Department

- did not act in accordance with Department policy when it closed the Claimant's Food Assistance for failure to verify information.

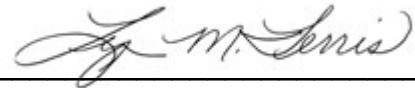
DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
 REVERSED.

- THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate reinstatement of the Claimant's Food Assistance as of the October 1, 2013 closure date and shall complete processing of the redetermination in accordance with this Decision.
2. The Department shall initiate processing of a Food Assistance supplement for FAP benefits the Claimant was otherwise entitled to receive in accordance with Department Policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 1, 2013

Date Mailed: November 1, 2013

NOTICE OF APPEAL: 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.

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).

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:

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]