

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-69923  
Issue No(s): 3008  
Case No.: [REDACTED]  
Hearing Date: October 29, 2013  
County: Tuscola

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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, telephone hearing was held on October 29, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist. The hearing record was left open for the Department to forward the documentation the Claimant brought to the hearing, which was received on October 31, 2013. (Exhibit A, pages 1-2)

**ISSUE**

Did the Department properly deny the Claimant's Food Assistance Program (FAP) application because all verifications were not returned?

**FINDINGS OF FACT**

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

1. On August 19, 2013, the Claimant applied for FAP. (Exhibit 1, page 4)
2. On August 26, 2013, a phone interview was completed. (Eligibility Specialist Testimony)
3. On August 26, 2013, the Department issued a Verification checklist to the Claimant listing what proofs were needed and the due date of September 5, 2013. (Exhibit 1, pages 2-3)

4. On September 5, 2013, the Claimant had trouble faxing the requested verifications to the Department in a single fax so she sent multiple faxes from two locations. (Claimant Testimony; Exhibit 1, pages 5-8; Exhibit A, pages 1-2)
5. On September 5, 2013, the Department received four faxes from the Claimant regarding the requested verifications. (Exhibit 1, pages 5-8)
6. On September 9, 2013, the Department received a fax from the Claimant requesting assistance in obtaining the requested verification from her last employer. (Exhibit 1, page 9)
7. The Department sent the Claimant's last employer the form to provide the requested verification, but the employer never returned it. (Eligibility Specialist Testimony)
8. The Department did not receive the requested checking and savings account verifications from the Claimant. (Eligibility Specialist Testimony)
9. On September 10, 2013, the Department issued a Notice of Case Action to the Claimant stating the FAP application was denied because all of the requested verifications were not returned. (Exhibit 1, pages 10-13)
10. On September 18, 2013, the Claimant filed a hearing request, protesting the Department's action. (Request for Hearing)

### **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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to

1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker should use their best judgment. BAM 130. The Department must re-register the application if the client complies within 60 days of the application date. See BAM 115 & BAM 130.

On August 26, 2013, the Department issued a Verification Checklist to the Claimant listing what proofs were needed and the due date of September 5, 2013. (Exhibit 1, pages 2-3) The Eligibility Specialist testified that no extensions were requested and the only verification the Claimant requested assistance in obtaining was from the prior employer. The Department sent the Claimant's last employer the form to provide the requested verification, but the employer never returned it. The Eligibility Specialist testified that the verifications that are missing were for savings and checking accounts. (Eligibility Specialist Testimony)

The Claimant credibly testified she had trouble faxing the requested verifications to the Department in a single fax so she sent multiple faxes, and even had to send the last set from a separate location. The Claimant stated she faxed everything the Department requested, including the bank verification. The Claimant submitted a fax confirmation print out from the two page fax sent September 5, 2013 at 1 5:28, which the Claimant stated included the bank verification. (Claimant Testimony; Exhibit 1, pages 5-8; Exhibit A, page 2)

The Department's exhibits confirm that multiple faxes were sent from two locations. However, the Department only included page 2 of a fax from September 5, 2013 at 15:28 pm. (Exhibit 1, page 8) The three other pages the Department received on September 5, 2013 were sent between 1:25 pm and 1:30 pm. (Exhibit 1, pages 5-7) The evidence supports the Claimant's testimony that there were problems faxing documentation to the Department of September 5, 2013. The evidence further indicates that at least one page the Claimant has a fax confirmation of sending to the Department on September 5, 2013, has been lost. (Exhibit A, page 2; Exhibit 1, pages 5-8) Accordingly, the denial of the Claimant's FAP application for failure to return all required verifications cannot be upheld.

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

- acted in accordance with Department policy when it .
- did not act in accordance with Department policy when it .

failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's FAP application.

**DECISION AND ORDER**

Accordingly, the Department's decision is

**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. Reinstate Claimant's Food Assistance Program (FAP) application and complete processing it in accordance with Department policy.

*Colleen Lack*

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Colleen Lack  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: November 6, 2013

Date Mailed: November 6, 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

CL/sw

cc:

