

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2014-1174
Issue No.: 3008
Case No.: ██████████
Hearing Date: October 28, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 28, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's interpreter, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Success Coach.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements?

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 June 6, 2013, Claimant applied for FAP benefits.
2. On June 13, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's checking account and missing check stubs and was due back by June 24, 2013. See Exhibit 1.
3. On June 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved in the amount of \$220 effective June 6, 2013 to June 30, 2013. See Exhibit A.

4. On June 18, 2013, the Notice of Case Action also notified Claimant that her FAP benefits were approved in the amount of \$264 effective July 1, 2013 to May 31, 2014. See Exhibit A.
5. On September 13, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.
6. On September 20, 2013, Claimant filed a hearing request, protesting the Department's action. Exhibit 1.

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 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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130 (July 2013), p. 5. The Department sends 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 105, p. 7.

In this case, on June 6, 2013, Claimant applied for FAP benefits. On June 13, 2013, the Department sent Claimant a VCL, which requested verification of Claimant's checking account and missing check stubs and was due back by June 24, 2013. See Exhibit 1. The Department testified that it never received the verifications before the VCL due date. On September 13, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1. The Department received the verifications, but after the VCL due date.

At the hearing, Claimant testified that when she first applied on June 6, 2013, she had assistance when submitting the application. Claimant testified that she also provided several documents electronically when she applied online. Claimant testified that this

included her bank statements, Claimant's and her husband's earnings, etc. Then, Claimant testified that she did receive the VCL dated June 13, 2013. Claimant testified that she did not respond to the VCL until she received the Notice of Case Action (dated September 13, 2013), which notified her that her FAP benefits would close due to her failure to provide the verifications. Claimant testified that the reason there was such a delay in providing the verifications was that her husband had employment issues. Nevertheless, Claimant testified that she resubmitted the verifications via mail that she did at the time of application to the Department on or around September 19, 2013. Claimant testified she resubmitted the verifications at the same time she requested her hearing.

During the hearing, the Department testified that it appeared to receive the requested verifications on or before September 24, 2013.

It should also be noted during the hearing that it was discovered on June 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved in the amount of \$220 effective June 6, 2013, ongoing. See Exhibit A. On June 18, 2013, the Notice of Case Action also notified Claimant that her FAP benefits were approved in the amount of \$264 effective July 1, 2013, to May 31, 2014. See Exhibit A. However, five days prior, the Department sent Claimant a VCL, which was due back by June 24, 2013. See Exhibit 1. These days appear to conflict with one another. It would be reasonable to conclude that the Claimant would be confused with one letter requesting verification and another letter stating she was approved.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (July 2013), p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 11. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 11. It is always the day before the negative action is effective. BAM 220, p. 11.

A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. BAM 220, p. 11. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, pp. 11-12. If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the negative action. BAM 220, p. 12. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, p. 13. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 13.

In the present case, Claimant's Request for a Hearing (Exhibit 1) stated that Claimant can submit a timely hearing request on or before September 24, 2013. BAM 220, p. 11. Thus, September 25, 2013, is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Both parties appeared to be in agreement that Claimant submitted the verifications on or before September 24, 2013. Nevertheless,

Claimant credibly testified that she submitted the verifications on or around September 19, 2013, the same time she requested her hearing. Therefore, Claimant met the VCL requirement before the September 25, 2013, negative action effective date. BAM 220, p. 11. Because the Claimant submitted the VCL requirements before the September 25, 2013, negative action date, the Department improperly closed Claimant's FAP benefits effective October 1, 2013, ongoing.

DECISION AND ORDER

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 improperly closed Claimant's FAP benefits effective October 1, 2013, ongoing.

Accordingly, the Department's FAP 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 FAP case as of October 1, 2013, ongoing;
2. Begin recalculating the FAP budget for October 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 4, 2013

Date Mailed: November 4, 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

EJF/cl

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