

**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.: 20141484
Issue No.: 3008
Case No.: ██████████
Hearing Date: October 31, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 31, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's mother and authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Specialist.

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 July 3, 2013, Claimant's son was born.
3. On an unknown date, Claimant reported her son's birth and a loss of employment to the Department.
4. On July 17, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting, among other things, verification of the child's birth and of end of employment by July 29, 2013.

5. On August 6, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP case would close effective September 1, 2013, because she had failed to provide verification of end of employment.
6. On September 24, 2013, Claimant filed a request for hearing disputing the Department's actions, explaining that she had submitted verification of end of employment.

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.

Additionally, Claimant requested a hearing concerning her FAP case. At the hearing, the AHR expressed concerns because (1) the FAP case had closed effective September 1, 2013, and (2) Claimant's child, who was born on July 3, 2013, had never been added to her FAP case.

Because Claimant reported the child's birth in July 2013, the first FAP allotment that would include him was August 2013. See BEM 212 (November 2012), p. 7. At the hearing, the Department testified that the child had been included in Claimant's FAP group for August 2013. During the hearing, the Department presented a benefit summary inquiry showing that it issued \$194 in FAP benefits to Claimant on August 11, 2013 and a [REDACTED] FAP supplement to Claimant on October 1, 2013. Thus, Claimant received FAP benefits totaling [REDACTED] for August 2013, the maximum available to a FAP group size of two. See RFT 260 (October 2013), p. 1. Thus, the Department acted in accordance with Department policy in issuing FAP benefits to Claimant for August 2013. Claimant's FAP case closed effective September 1, 2013.

The Department explained at the hearing that, although Claimant's FAP case was initially due to close on September 1, 2013, because she had failed to verify end of employment, upon its review of her case after she filed her hearing request on September 24, 2013, the Department found evidence in its system that the requested verification had been submitted by Claimant. The Department testified that, based on this evidence, on October 2, 2013, it attempted to reinstate Claimant's FAP case as of September 1, 2013, but was unable to do so because a child support noncompliance sanction entered on September 6, 2013, appeared on Claimant's record in the

Department's system and prevented the case from reopening. In response, the Department sent Claimant a Verification Checklist (VCL) requiring that Claimant cooperate with child support by October 11, 2013.

However, there is no evidence that the Department ever notified Claimant through a notice of case action that her FAP case closed due to child support noncooperation rather than failure to verify end of employment. While a notice of case action is not required for certain actions taken in connection with a client's FAP case, none of the circumstances provided in policy are applicable to a situation involving a case closure due to noncompliance with child support. BAM 220 (July 2013), p. 4. A timely notice, which would be required for a FAP case closure due to child support noncompliance, specifies the action being taken by the Department and the reason for the action and must be mailed at least 11 days before the intended negative action takes effect in order to provide the client a chance to react to the proposed action. BAM 220, pp. 2-4. By failing to reinstate Claimant's FAP case as of September 1, 2013, in response to its error in closing the case for failure to verify loss of employment, and issuing a new notice of case action concerning the closure of the case due to child support noncooperation, the Department did not act in accordance with Department policy.

Furthermore, there was evidence that the Department did not act in accordance with Department policy in addressing the child support sanction in this case. As a condition of FAP eligibility, the custodial parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, **unless** a claim of good cause for not cooperating has been granted or is pending. BEM 255, p 1. If an individual required to cooperate with child support reporting obligations fails to do so without good cause, the adult member who failed to cooperate is disqualified from the FAP group until the later of one month or when the individual cooperates. BEM 255, pp 9-11.

In this case, the Department presented evidence that the Office of Child Support (OCS) entered a compliance date of October 30, 2013. The AHR acknowledged that Claimant provided information concerning her child's father to OCS on October 30, 2013. However, the AHR explained that Claimant had previously contacted OCS on August 23, 2013, and, when Claimant expressed concerns about revealing information concerning the father's identify because of some domestic violence issues, OCS informed her that she should contact her Department worker to establish good cause for not disclosing requested child support information. Department policy provides that the Department must inform individuals of the right to claim good cause as an exception to the child support cooperation requirement when a client claims good cause by giving them a DHS-2168, Claim of Good Cause-Child Support. BEM 255, p. 2. The Department's specialist is responsible for determining whether good cause exists. BEM 255, p. 4.

Although Claimant's worker did not recall any conversation concerning Claimant's good cause excuse for the child support noncooperation issue, the AHR testified that she

contacted both the worker at the hearing and a worker the Glendale office to request assistance with the child support good cause issue. The AHR testified that the worker told her that she would send the form, as well as another document, to Claimant, but Claimant only received the other document. The AHR added that Claimant provided OCS with the father's information on October 30, 2013 only after she was unable to remedy the closure of her cases and because OCS agreed not to disclose Claimant's address to the father.

The AHR's detail of her conversation with OCS and its consistency with Department policy as well as the circumstances of Claimant's ultimate disclosure of the father's information made her testimony credible. Because the Department failed to comply with the good cause procedure, it did not act in accordance with Department policy when it relied on the child support sanction entered on September 6, 2013, in preventing Claimant's FAP case from opening.

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 Claimant's FAP case effective September 1, 2013.

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. Remove the child support noncompliance of September 6, 2013, from Claimant's record;
2. Reinstate Claimant's FAP case effective September 1, 2013;
3. Calculate Claimant's FAP budget for September 1, 2013, ongoing to include both Claimant and her son as FAP group members;
4. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from September 1, 2013, ongoing; and
5. Notify Claimant in writing of its decision.



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

Date Signed: November 7, 2013

Date Mailed: November 7, 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

CE/tm

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