

**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.: 2014-2045
Issue No(s): 3008
Case No.: ██████████
Hearing Date: November 12, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 November 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker.

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 September 17, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, her FAP case would be closing on the basis that she failed to provide the Department with requested verifications and that she failed to cooperate with child support requirements. (Exhibit 1).
3. On September 24, 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), 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, the custodial parents 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 she receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2013), pp. 1.

A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-11. Cooperation is required in all phases of the process to establish paternity and obtain support and includes providing all known information about the absent parent. BEM 255, p. 9. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for FAP benefits. BEM 255, pp. 9-11.

In this case, the Department testified that Claimant was in noncompliance with child support but failed to provide any evidence in support of its testimony and could not provide any details concerning the nature of the noncompliance. Claimant stated that the her husband, who is also the father of all of her children lives with her in the home and that she provided the Department with all of the information requested. Claimant presented a letter from the Office of Child Support informing her that as of 10/25/13, she was in cooperation with child support requirements. (Exhibit A). Therefore, the Department has not satisfied its burden in establishing that Claimant is in noncompliance with child support and subject to disqualification.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2013), p.1. To request verification of information, the Department sends a Verification Checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3. FAP clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.5-6. For FAP cases, the Department sends a negative action notice when the client indicates a 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, p. 6.

In this case, on September 3, 2013, the Department sent Claimant a VCL requesting that she submit verification of her husband's income by September 13, 2013. (Exhibit 2). The Department stated that because Claimant did not submit the requested verifications by the due date, it sent Claimant a Notice of Case Action informing her of the FAP case closure based on a failure to verify.

At the hearing, Claimant testified that during a previous redetermination interview with the Department, she informed her case worker that her husband was working but getting paid cash and that he did not have earnings statements or paystubs. Claimant stated that her husband works as a handyman and does not have a boss, as he gets paid to do jobs for people like fixing cars, and cutting grass. After receiving the VCL, Claimant stated that she called the Department to inform her worker that she would not be able to submit the verifications because none of the people whom her husband did work for would submit an employer statement.

At the hearing, the Department stated that Claimant could have submitted self-employment earnings and expense statements as verification of her husband's income; however, Claimant was never informed of this by the Department and she was not provided with the documentation to allow her to submit such information. Therefore, the Department has failed to establish that Claimant refused to provide the verifications and that she failed to make a reasonable effort to submit them.

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 October 1, 2013, on the basis that she failed to provide the Department with requested verifications and that she failed to cooperate with child support requirements.


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 any child support sanction imposed on Claimant's case;
2. Reinstate Claimant's FAP case effective October 1, 2013,
3. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not effective October 1, 2013, ongoing; and

4. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 19, 2013

Date Mailed: November 19, 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

ZB/tm

cc: 