

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

**IN THE MATTER OF:**



Reg. No.: 2014-2600  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: November 6, 2013  
County: Wayne (17)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 6, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUE**

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) eligibility due to Claimant's failure to verify assets.

**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 FAP benefit recipient.
2. Claimant has an ongoing direct express account in which her Social Security Administration (SSA) income was deposited.
3. On [REDACTED]/13, DHS mailed Claimant a Verification Checklist (VCL) requesting proof of Claimant's account balance.
4. Claimant failed to return proof of the account.
5. On [REDACTED]/13, DHS initiated termination of Claimant's FAP eligibility, effective [REDACTED]/2013, due to a failure to verify assets.

6. On [REDACTED]/13, Claimant requested a hearing to dispute the FAP termination.

### **CONCLUSIONS OF LAW**

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FAP benefit termination. It was not disputed that the termination was based on a Claimant failure to verify a direct express checking account.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2013), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2. For FAP benefits, DHS is to 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.

*Id.*, p. 5.

Claimant's hearing request noted that Claimant does not have a traditional bank account. Claimant credibly testified that her only account is a direct express account. Claimant also testified that she was unaware of how to verify the account.

The client must obtain required verification, but DHS must assist if they need and request help. *Id.*, p. 3. If neither the client nor DHS obtain verification despite a reasonable effort, DHS is to use the best available information. *Id.*

Claimant testified that she tried to obtain the requested verification based on what DHS would accept. Claimant testified that the VCL listed a bank statement as acceptable proof. Claimant testified that she went to a bank. Claimant testified that the bank referred Claimant to Social Security Administration (SSA) to obtain a statement. Claimant testified that she went to SSA and that she was told that she could not obtain a statement there either. Claimant testified that she called her specialist numerous times about how to proceed in submitting a verification of assets.

Claimant's DHS specialist testified that she told Claimant on two occasions that an automated teller machine (ATM) receipt would suffice as acceptable verification of the asset. The specialist testified that Claimant was told this once prior to case closure, and

once after. Claimant responded that she was only informed after case closure that an ATM receipt would suffice as verification.

If Claimant called DHS asking for assistance before her case closed and DHS failed to respond until after case closure, this would support finding that closure was improper. If DHS informed Claimant of how to proceed after Claimant called and Claimant failed to submit an ATM receipt, this would support finding that case closure was proper.

Both Claimant and DHS had problems with testimony. For example, DHS initially presented testimony that a VCL was not mailed; DHS eventually figured out that a VCL was mailed to Claimant. Claimant testified that she saw her specialist on the date that she requested a hearing; Claimant later testified that she was unsure if she saw the specialist on that date. Neither side was dishonest, but both sides had difficulty remembering details.

It is a close call, but based on the presented evidence, DHS had more trouble remembering details than Claimant. It is found that DHS did not inform Claimant that an ATM receipt was acceptable verification of assets until after case closure, despite Claimant's calls prior to case closure. Accordingly, the FAP closure was improper.

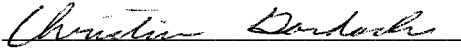
As it happened, Claimant reapplied for FAP benefits in [REDACTED]/2013. It was not disputed that Claimant verified the direct express account in [REDACTED]/2013 and was found eligible for prorated FAP benefits in [REDACTED]/2013. Thus, the below order presumes Claimant's asset-eligibility for [REDACTED]/2013.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's FAP benefit eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective [REDACTED]/13, subject to the findings that DHS failed to assist Claimant in verifying assets and that Claimant was asset eligible for FAP benefits in [REDACTED]/2013; and
- (2) supplement Claimant for any FAP benefits improperly not issued.

The actions taken by DHS are REVERSED.

  
Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 11/15/2013

Date Mailed: 11/15/2013

**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

CG/hw

cc:

