

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2014-2927
Issue No.: 3008; 6015
Case No.: ██████████
Hearing Date: November 6, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 on behalf of Claimant included Claimant and Claimant's spouse, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application for Food Assistance Program (FAP) and Child Development and Care (CDC)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for FAP and CDC benefits on September 1, 2013.
2. The Department issued a VCL on September 6, 2013 with proof due on September 16, 2013.
3. Claimant received the VCL after the due date.
4. Upon receipt of the VCL, Claimant called her Department worker.

5. Claimant's Department worker did not return Claimant's call.
6. On September 19, 2013, the Department issued a Notice of Case Action, denying Claimant's application due to failure to return verification.
5. On September 27, 2013, Claimant filed a hearing request, protesting the Department's action.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3001-3015

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1997 AACS R 400.5001-5015.

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 105 BAM 130 The client should be allowed 10 calendar days to provide the verification. BAM 130 If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. *Id.* "Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification." *Id.*

In the present case, The Department issued a VCL on September 6, 2013 with proof due on September 16, 2013. Claimant testified credibly at the hearing that she received the VCL on September 18, 2013 or September 19, 2013. Upon receipt of the VCL, Claimant called her Department worker. Claimant's Department worker did not return Claimant's call. On September 19, 2013, the Department issued a Notice of Case Action, denying Claimant's application due to failure to return verification.

The Department has not proven that Claimant failed to cooperate, as she did not receive the VCL until after the proof was due, and upon receipt of the late VCL, Claimant attempted to contact her worker.

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

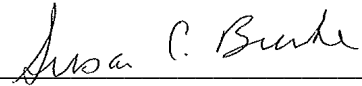
DECISION AND ORDER

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 and reprocess Claimant's September 1, 2013 application for FAP and CDC.
2. Issue FAP and CDC supplements for any missed or increased payment.



Susan C. Burke
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

SCB/tm

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