

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

IN THE MATTER OF:

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

Reg. No.: 2014-3948
Issue No.: 3008
Case No.: ██████████
Hearing Date: November 6, 2013
County: Oakland (03)

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 November 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's friend/interpreter, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

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. Claimant was an ongoing recipient of FAP benefits.
2. On September 5, 2013, the Department discovered that Claimant's daughter had recent employment.
3. On September 5, 2013, the Department sent Claimant a Verification Checklist (VCL) and a Verification of Employment, which were due back by September 16, 2013. See Exhibit 1.
4. Claimant did not submit the verification of employment timely.

5. On September 17, 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 verify the unearned income. See Exhibit 1.
6. On September 20, 2013, the Department received the Verification of Employment from the Claimant; however, the form was not completed by the employer. See Exhibit 1.
7. On October 2, 2013, Claimant filed a hearing request, protesting the FAP case closure. See 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.

As a preliminary matter, the Notice of Case Action dated September 17, 2013, also notified the Claimant that her Adult Medical Program (AMP) benefits would close effective October 1, 2013, ongoing, due to her failure to verify the unearned income. See Exhibit 1. A review of Claimant's hearing request discovered that she only check-marked the FAP hearing dispute and did not mention the AMP benefits. See Exhibit 1. Thus, this hearing decision will only address Claimant's hearing request disputing the FAP case closure and not the AMP benefits. See BAM 600 (July 2013), pp. 3-4.

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 130, p. 6.

The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. The Department verifies income at application and at redetermination. BEM 505 (July 2013), p. 13. The Department verifies changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. BEM 505, p. 13.

The Department verifies income that stopped within the 30 days prior to the application date or while the application is pending before certifying the EDG. BEM 505, p. 13. If

eligibility fails due to lack of verification of stopped income, a client who reapplies, does not need to verify stopped income if it has been over 30 days. BEM 505, p. 13.

In this case, Claimant was an ongoing recipient of FAP benefits. On September 5, 2013, the Department discovered that Claimant's daughter had recent employment. On September 5, 2013, the Department sent Claimant a Verification Checklist (VCL) and a Verification of Employment, which were due back by September 16, 2013. See Exhibit 1. Claimant did not submit the verification of employment timely. On September 17, 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 verify the unearned income. See Exhibit 1. On September 20, 2013, the Department received the Verification of Employment from the Claimant; however, the form was not completed by the employer. See Exhibit 1. A review of the form indicated that Claimant submitted form and/or her daughter stating that the employment occurred four months ago and the employer did not hire her. See Exhibit 1. Moreover, it appears that the Claimant and/or her daughter stated that the employer did not want to complete the form. See Exhibit 1.

Additionally, the Department testified that it contacted the Claimant to obtain the employer's number in an attempt to do a collateral contact to verify the daughter's employment. Moreover, the Department testified that there is a language barrier present in this case.

The local office must assist clients who ask for help in completing forms (including the DCH-0373-D) or gathering verifications. BAM 105 (July 2013), p. 12. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105, p. 12.

Based on the foregoing information, the Department improperly closed Claimant's FAP benefits effective October 1, 2013, ongoing. The Department acknowledged a language barrier issue present in this case. As such, the Department should have assisted the Claimant due to her not being fluent in English. BAM 105, p. 12. Thus, the Department will reinstate benefits and obtain verification of Claimant's daughter's employment to determine Claimant's ongoing FAP eligibility 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. Initiate verification of Claimant's daughter's employment to determine Claimant's ongoing FAP eligibility effective October 1, 2013, and in accordance with Department policy;
3. Begin recalculating the FAP budget for October 1, 2013, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
5. 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 13, 2013

Date Mailed: November 13, 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.

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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]