

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-5629
Issue No(s): [REDACTED]
Case No.: [REDACTED]
Hearing Date: November 7, 2013
County: DHS-SSPC-West

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 three way telephone hearing was held on November 7, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) case because requested verifications were not returned?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 28, 2013, the Claimant applied for FAP benefits.
2. On September 5, 2013, a phone interview was completed and expedited FAP benefits were approved for the Claimant.
3. On September 5, 2013, a Verification Checklist was issued to the Claimant stating proofs of the donation or contribution from an individual outside the group and of the Claimant's checking account were needed by the September 16, 2013, due date. (Exhibit E)
4. The Department received the requested bank verification from the Claimant and an email regarding a PayPal payment for to an individual listed only by the Claimant's middle and last name.

5. On September 26, 2013, the Department determined the Claimant's FAP case would be closed because usable verification of the donation was not received.
6. On September 26, 2013 a Notice of Case Action was mailed to the Claimant stating the FAP case would close effective October 1, 2013, because verification of unearned income payment was not returned. (Exhibit G)
7. On October 7, 2013, the Claimant filed a request for hearing contesting the Department's actions. (Exhibit C)

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, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. BAM 130. The Department must re-register the application if the client complies within 60 days of the application date. See BAM 115 & BAM 130.

The Eligibility Specialist present for the November 7, 2013 telephone hearing proceedings was filling in for the worker that closed the Claimant's FAP case. The

Eligibility Specialist testified that on August 28, 2013, the Claimant applied for FAP benefits. The evidence indicates that on September 5, 2013, a phone interview was completed and expedited FAP benefits were approved for the Claimant. (Exhibits A-G) The Department documented that the Claimant reported his only source of income was donation from friends. (Exhibit D)

Additionally, on September 5, 2013, a Verification Checklist was issued to the Claimant stating proofs of the donation or contribution from an individual outside the group and of the Claimant's checking account were needed by the September 16, 2013 due date. Regarding the donation or contribution from an individual outside the group, the Verification Checklist specified that "letter or document from person/agency making payment" was the requested proof. There was no comments section on this Verification Checklist providing further information about the requested verifications. (Exhibit E)

The Department did not accept the submitted verification of the donation or contribution from an individual outside the group because the PayPal confirmation email was addressed to the wrong name and there was no date or frequency of donation specified. (Exhibit A) It is noted that this email confirmation is addressed to the Claimant's middle and last name. (Exhibit F) The evidence further indicates the Department was at least aware that the Claimant's middle name began with the letter "C" as correspondence the Department sent to the Claimant included his middle initial in the mailing address. (Exhibits B, E and G) It is not clear why the Claimant's case name was entered differently, omitting the middle initial. (Exhibits A-E and G)

The Claimant submitted what was listed as acceptable verification on the September 5, 2013, Verification Checklist, a statement from the person/agency making the donation. The Verification Checklist did not specify what additional information would be needed in the statement, such as the frequency of the donation. Further, the Claimant credibly testified he attempted to contact the Department several times to resolve the issue with this verification. The Claimant stated the only voice mail that was left for him did not provide any explanation, just a call back number, and many calls were not returned.

The Claimant testified that he has since provided an additional statement from the individual that made the contribution. (Exhibit 1) However, the Eligibility Specialist explained that this statement could not be used to re-instate the Claimant's FAP case because it was received just a few days beyond 60 days from the August 28, 2013 FAP application.

The Claimant also asserted that the Department failed to reinstate his FAP case based on the timely filing of the hearing request. The Hearing Summary is marked that the Claimant's FAP case was not reinstated. (Exhibit A) However, during the November 7, 2013 telephone hearing proceedings, the Eligibility Specialist confirmed that the Claimant's FAP case is showing as reinstated on the Department's computer system.

The Verification Checklist, in part, specifically requested a letter or document from person/agency making payment as verification of the Claimant's income from donation or contribution from an individual outside the group. (Exhibit E) It was uncontested that

before the due date, the Claimant provided a copy of the PayPal email confirmation of the [REDACTED] payment. (Exhibit F) While this email only identifies the Claimant by middle and last name, there is evidence that the Department was aware of at least the first letter of the Claimant's middle name based on the mailing address of correspondence the Department sent to the claimant. (Exhibits B, E, and G) The Department did not specify on the Verification Checklist that additional information, such as the frequency of the donation or contribution, was needed. (Exhibit E) There is no evidence the Department let the Claimant know there was any issue with the submitted email confirmation and that additional information was needed to verify the donation or contribution. Accordingly, the closure of the Claimant's FAP case cannot be upheld.

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 the Claimant's FAP case.

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 the Claimant's FAP case retroactive to the October 1, 2013 closure date and re-determine eligibility in accordance with Department policy.
2. Issue the Claimant any supplement that he may thereafter be due.

Colleen Lack

Colleen Lack
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

CL/las

cc:

