

**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.: 2014-5645
Issue No.: 3008
Case No.: ██████████
Hearing Date: November 13, 2013
County: Wayne (43)

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 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. 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 September 1, 2013, 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 July 16, 2013, the Department sent Claimant a Redetermination, which was due back by August 2, 2013. See Exhibit 1.
3. Claimant also had a telephone interview scheduled on August 2, 2013.
4. On August 2, 2013, Claimant returned the Redetermination. See Exhibit 1.

5. On August 27, 2013, the Department sent Claimant a Verification Checklist (VCL), which was due back by September 6, 2013. See Exhibit 1.
6. Claimant failed to submit the verifications by the due date.
7. On September 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective September 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.
8. On September 19, 2013, Claimant reapplied for FAP benefits and provided the necessary verifications.
9. Effective September 19, 2013 to September 30, 2013, Claimant was issued \$210 in FAP benefits. See Exhibit 1.
10. On September 30, 2013, Claimant filed a hearing, 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, on September 19, 2013, Claimant reapplied for FAP benefits and provided the necessary verifications. Effective September 19, 2013 to September 30, 2013, Claimant was issued \$210 in FAP benefits. See Exhibit 1. Claimant is disputing the FAP case closure and seeking her remaining FAP benefits for the benefit month of September 2013.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

A complete redetermination is required at least every 12 months. BAM 210 (July 2013), p. 1. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. An interview is required before denying a redetermination. BAM 210, p. 3. A telephone interview may be done for a client in regards to FAP cases. BAM 210, p. 4. A redetermination/review packet is considered complete when all of the sections of the redetermination form

including the signature section are completed. BAM 210, p. 10. If the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the EDG. BAM 210, p. 10. A DHS-1605 is not generated. BAM 210, p. 10.

In this case, Claimant was an ongoing recipient of FAP benefits. On July 16, 2013, the Department sent Claimant a Redetermination, which was due back by August 2, 2013. See Exhibit 1. Claimant also had a telephone interview scheduled on August 2, 2013. On August 2, 2013, Claimant returned the Redetermination. See Exhibit 1. The Department testified that it conducted a telephone interview with the Claimant on August 12, 2013. Moreover, the Department testified that it informed the Claimant that she had to provide verification of her daughter's income. However, Claimant testified that she did not remember if she spoke to the Department on August 12, 2013. It should be noted that the interview date according to the Redetermination was August 2, 2013, and not August 12, 2013, as the Department testified.

Nevertheless, on August 27, 2013, the Department sent Claimant a VCL, which was due back by September 6, 2013. See Exhibit 1. Specifically, the VCL requested verification of Claimant's shelter expenses and her daughter's income. See Exhibit 1. The Department testified that it never received the verifications by the due date. However, Claimant testified that she never received the VCL dated August 27, 2013. During the hearing, the Department presented Claimant the VCL dated August 27, 2013, and Claimant testified that she never received the VCL. Claimant testified that she had issues in the past receiving her DHS correspondence. It should be noted that the Department did not receive unreturned mail for the VCL.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The Department presented credible evidence and testimony that the VCL was sent to the Claimant on August 27, 2013. A review of the VCL indicated that it was sent to the proper address. Moreover, contrary to Claimant's testimony that she had issues in the past with her DHS correspondence, Claimant received her Redetermination and Notice of Case Actions. It is found that Claimant failed to rebut the presumption of proper mailing.

Additionally, on September 18, 2013, the Department testified that it contacted the Claimant notifying her that it has not received her daughter's income verification. The Department testified that it notified the Claimant that if it did not receive the verification by that day, her benefits would close. The Department testified that it never received the verifications by September 18, 2013 and on that same day, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective September 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.

On September 18, 2013, Claimant testified that she contacted the DHS number to inquiry how much her FAP issuance would be on September 19, 2013. Claimant testified that the DHS number indicated she would only be issued a certain amount. Thus, Claimant testified that she contacted her DHS caseworker on September 18, 2013 and left a voicemail. On that same day, Claimant testified that the DHS caseworker contacted her and explained she needed her daughter's income verification. Claimant testified that it was after hours at her daughter's employment and she could not obtain it on September 18, 2013. Therefore, on September 19, 2013, Claimant obtained her daughter's verification and submitted it with the new application on that same day.

For FAP cases, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14. The DHS-3503, Verification Checklist should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 14. The FAP groups loses its right to uninterrupted FAP benefits if it fails to submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210, p. 17.

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, p. 18. The Department proceeds as follows if the client takes the required action within 30 days after the end of the benefit period: re-register the redetermination application using the date the client completed the process and if the client is eligible, prorate benefits from the date the redetermination application was registered. BAM 210, p. 18.

Based on the foregoing information and evidence, the Department properly closed Claimant's FAP benefits effective September 1, 2013, in accordance with Department policy.

First, as stated previously, the Department provided credible evidence that it properly sent Claimant the VCL dated August 27, 2013. It is found that Claimant failed to rebut the presumption of proper mailing.

Second, for FAP cases, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14. Claimant failed to submit the verifications by the due date. Claimant's FAP group lost her right to uninterrupted FAP benefits because she failed to submit the verifications timely. See BAM 210, p. 17. Moreover, if a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, p. 18. Claimant appropriately submitted her redetermination before the end of the benefit period; however, she failed to take her required action by providing the necessary verifications. Thus, her FAP case was properly closed at the end of the benefit period. BAM 210, p.

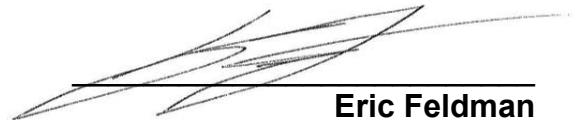
18. In summary, Claimant failed to complete the necessary forms to determine her ongoing FAP eligibility. BAM 105, p. 6.

It should be noted that because Claimant reapplied on September 19, 2013, and provided the necessary verifications at that time, thus, she is only entitled to the benefits from September 19, 2013, and not September 1, 2013. See BAM 210, pp. 18-19.

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 acted in accordance with Department policy when it closed Claimant's FAP case effective September 1, 2013, due to her failure to comply with the verification requirements.

Accordingly, the Department's FAP decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 18, 2013

Date Mailed: November 18, 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.

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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]