

**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.: 2014-6531
Issue Nos.: 3008, 6015
Case No.: ██████████
Hearing Date: November 18, 2013
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included █████ █████ █████
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ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) cases?

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 and CDC benefits.
2. On August 29, 2103, the Department sent Claimant four Wage Match Client Notices for four different employers. The Notices advised Claimant to have the listed employer complete the form or to provide paystubs for the last 30 days by September 30, 2013, or her cases could close. (Exhibits 1-4)
3. On October 1, 2013, the Department sent Claimant a Notice of Case Action notifying her that, effective November 1, 2013, her FAP case would close because she had failed to verify requested information.

4. On October 14, 2013, Claimant filed a request for hearing disputing the Department's actions closing her FAP and CDC cases.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, Claimant requested a hearing to dispute the closure of her FAP and CDC cases. At the hearing, the Department testified that Claimant's FAP and CDC cases both closed due to Claimant's failure to return all four completed Wage Match Client Notices sent to her on August 29, 2013. The Department did not include the relevant Notice of Case Action in the hearing packet. When requested to provide one during the hearing, the Department submitted the October 1, 2013, Notice of Case Action closing Claimant's FAP case. Because Claimant alleged that her CDC case was also closed and the Department did not establish that it remained open, both the closure of Claimant's FAP and CDC cases are considered in this Hearing Decision.

In this case, the Department became aware, pursuant to a wage match with work history records submitted by Michigan employers, that Claimant had employment income that was not referenced in her case file. When there is a discrepancy between the wage match information and the client's work history stated on an application or other information in the client's case record, the Department must request verification from the client by sending a Wage Match Client Notice (DHS-4638). BAM 802 (December 2011), p. 1. If verifications are not returned by the 30th day, the case will close for a minimum of 30 days after appropriate actions are taken in the Department's system unless the client returns verifications. BAM 802, p. 2. If the client applies more than 30 days after closure, the client's case may be reopened from the date of the new application, if eligible. BAM 802, p. 2.

In this case, Claimant testified that she reported her job changes and verified her income for each of her jobs while her case was at a prior Department local office. However, the Department testified that her file did not contain any evidence of previously reported employment at the four employers listed. Because there was a discrepancy in the information in Claimant's file and the wage match data, the Department properly requested verification through the Wage Match Client Notice, DHS-4638, in accordance with Department policy.

Wage match verification was requested from four employers: (1) [REDACTED] for the July 1, 2012, to present; (2) [REDACTED] for July 1, 2012, to present; (3) [REDACTED] for July 1, 2011, to present, and (4) [REDACTED] for July 1, 2011, to present. Claimant testified that she was no longer employed at any of these employers. She further testified that, because her worker advised her that the Department could get the requested wage verification from all of the employers except [REDACTED] from the Work Number, Claimant focused on getting the Wage Match Client Notice completed by [REDACTED]. The Department did not recall advising Claimant that it could retrieve information about the other employers from the Work Number. However, it provided a Work Number document after the hearing showing it had access to information concerning Claimant's employment information from [REDACTED]. The fact that the Department could access some of Claimant's work records through the Work Number lends credibility to Claimant's argument that she was required to provide verification regarding only [REDACTED].

At the hearing, Claimant credibly testified that, even though she had not been employed with [REDACTED], she made a good faith attempt to obtain verification from the employer but had difficulty getting the employer to timely respond. In support of her testimony, she provided an email from the employer's manager apologizing for the delay in completing and returning the Notice. The Department may not terminate benefits because an employer fails to provide requested verification. BEM 501 (July 2013), p. 8. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department must use the best available information, and if no evidence is available, its best judgment. BAM 130 (July 2013), p. 3.

Under the facts in this case, where the Department was seeking employment verifications from employers for which Claimant had not worked for more than a year and Claimant established that she believed she was only required to obtain verification from one employer and was not able, in good faith, to obtain this verification, the Department did not act in accordance with Department policy when it closed Claimant's FAP case and, if applicable, CDC case.

At the hearing, Claimant was also concerned about the fact that her FAP benefits were not continued pending the hearing. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request for hearing was filed timely. BAM 600 (July 2013), pp. 17-18. A hearing is timely filed if the request is received anywhere in the Department within 11 days of the effective date of the negative action. BAM 600, p. 17. When the 11th

calendar day is a Saturday, Sunday, holiday or other non-workday, the request is timely if received by the following workday. BAM 600, p. 18.

In this case, the Department's October 1, 2013, Notice of Case Action provides that the Department would have to receive the hearing request by October 14, 2013, in order for benefits to be continued. Because Claimant's request for hearing was filed on October 14, 2013, the Department failed to act in accordance with Department policy when it failed to continue Claimant's FAP benefits pending the hearing. Because this Hearing Decision reverses the Department's actions, Claimant is entitled to supplements for any FAP benefits she was eligible to receive but did not from November 1, 2013, ongoing.

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 Claimant's FAP and CDC cases effective November 1, 2013;
2. Remove any wage match sanction applied to Claimant's record on or about November 1, 2013;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 1, 2013, ongoing, based on current, verified employment income; and
4. Issue supplements to Claimant's provider for any CDC benefits Claimant was eligible to receive but did not from November 1, 2013, ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 25, 2013

Date Mailed: November 25, 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

ACE/pf

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