

**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.: 2014-7274
Issue No.: 3019
Case No.: ██████████
Hearing Date: November 20, 2013
County: Wayne (17)

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 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Assistant Payment Worker.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective November 1, 2013, ongoing?

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 September 20, 2013, Claimant applied for FAP benefits, which she indicated on the application that she had checking and savings accounts. See Exhibit 1.
2. On September 24, 2013, the Department conducted a FAP telephone interview.
3. On September 24, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for September 20, 2013 to September 30, 2013, in the amount of \$134. See Exhibit 1.
4. On September 24, 2013, the Notice of Case Action also notified her that her FAP benefits were approved for October 2013 in the amount of \$367. See Exhibit 1.

5. On September 24, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's checking and savings account and was due back by October 4, 2013. See Exhibit 1.
6. Claimant did not submit the verifications by the due date.
7. On October 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective November 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.
8. On October 16, 2013, Claimant filed a hearing request, protesting her FAP case closure. Exhibit 1.
9. On October 16, 2013, Claimant also submitted verification of her bank accounts in the local DHS drop box.

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.

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

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. 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.

In this case, on September 20, 2013, Claimant applied for FAP benefits, which she indicated on the application that she had checking and savings accounts. See Exhibit 1. On September 24, 2013, the Department conducted a FAP telephone interview. On September 24, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for September 20, 2013 to September 30, 2013, in the amount of \$134. See Exhibit 1. On September 24, 2013, the Notice of Case Action also notified her that her FAP benefits were approved for October 2013 in the amount of \$367. See Exhibit 1. On September 24, 2013, the Department sent

Claimant a VCL, which requested verification of Claimant's checking and savings account and was due back by October 4, 2013. See Exhibit 1. Claimant did not submit the verifications by the due date. On October 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective November 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.

At the hearing, Claimant testified that she spoke to the Department on previous occasions regarding the verifications. Nevertheless, both parties agreed that Claimant submitted verification of her bank accounts in the local DHS drop box on October 16, 2013.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (July 2013), p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 11. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 11. It is always the day before the negative action is effective. BAM 220, p. 11. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. BAM 220, p. 11. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, pp. 11-12.

If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the negative action. BAM 220, p. 12. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, pp. 12-13. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 13.

In the present case, Claimant's Request for a Hearing (Exhibit 1) stated that Claimant can submit a timely hearing request on or before October 18, 2013. BAM 220, p. 11. Thus, October 19, 2013, is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Both parties agreed that Claimant submitted the verifications on October 16, 2013. Even though Claimant submitted the VCL after the October 4, 2013 due date, Claimant's met the requirement before the October 19, 2013 negative action effect date. BAM 220, p. 12. Based on the Notice of Case Action and because the Claimant submitted the VCL requirements before the October 19, 2013, negative action date, the Department improperly closed Claimant's FAP benefits effective November 1, 2013, ongoing. The Department should have deleted the negative action and run her FAP eligibility. See BAM 220, pp. 12-13.

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 case effective November 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 November 1, 2013, ongoing;
2. Begin recalculating the FAP budget for November 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 1, 2013, ongoing; and
4. 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 26, 2013

Date Mailed: November 26, 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

EJF/cl

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