

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-12343
Issue No(s): 3004
Case No.: [REDACTED]
Hearing Date: December 11, 2013
County: Macomb 12

ADMINISTRATIVE LAW JUDGE: Katherine Talbot

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, telephone hearing was held on December 11, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. 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) benefits?

FINDINGS OF FACT

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

1. The Claimant was receiving Food Assistance Program (FAP) benefits.
2. A review of the case commenced in August 2013. Neither party could provide the exact date.
3. The Department requested verifications, including a verification of assets. Neither party could provide the date the request for verifications were mailed by the Department.
4. The Claimant provided the requested verifications in the time allowed by the Department. Neither party could provide the date the verification were received by the Department.

5. [REDACTED], Eligibility Specialist, closed the Claimant's FAP case in error. She could not provide the date that notice was sent to the Claimant.
6. The Claimant inquired about the closing of her case. She disputed the reason for the case closure.
7. The Claimant was advised by another case manager, [REDACTED], to re-apply for benefits.
8. The Claimant followed instructions from the Department and re-applied for FAP benefits on October 30, 2013.
9. The Claimant was instructed to file new verifications for the application filed on October 30, 2013. The Department requested the same information, already supplied by the claimant, to be resubmitted for the new application.
10. On November 11, 2013, the Claimant requested a hearing on the closure of her original FAP case.
11. After receiving the Claimant's request for hearing, [REDACTED] discovered the original verifications had been received timely by the Department.
12. The Claimant disputed the need to resubmit the verification information. She pointed out that the Department acknowledged receipt of the original verifications.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to

1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

The Claimant was receiving Food Assistance Program (FAP) benefits. A review commenced in August of 2013. Verifications were requested. The Department could not provide the date the verifications were mailed.

The Claimant complied with the Department's requests for verifications. It is undisputed that the verifications were received by the Department by the date requested on the verification checklist.

The Department closed the Claimant's FAP case beginning September 1, 2013. The Department acknowledged the Claimant's FAP benefits should not have been closed. The Department confirmed the case was closed in error.

██████████, testified she discovered the verifications were received timely after the claimant requested a hearing. She testified she was unable to reopen and process the verifications. She could not access the information from the original filing because the Claimant had re-applied. ██████████ testified the Department's Help Desk must process the verifications and issue any supplements.

At the time of the hearing, ██████████ had taken steps to correct the error. She submitted a request to the Department's Help Desk. She requested that the Claimant's benefits be supplemented. ██████████ testified she believes the Help Desk will process payment in the full amount for the months of September and October 2013.

At the time of the hearing, no supplement payments had been processed or issued to the claimant.

The Claimant re-applied for benefits after the Department erroneously closed her FAP case. The Department implied that the Claimant caused the problem by re-applying for benefits. However, the Claimant was instructed to re-apply. She did as instructed by another caseworker, ██████████.

After the Claimant re-applied, a supervisor ordered the new caseworker to obtain new verifications for the same information the Claimant had already supplied. ██████████ did not know why the new verifications were ordered.

The Department failed to sustain its burden to prove, based on a preponderance of the evidence that it acted in accordance with policy when it closed the claimant's Food Assistance Program (FAP) benefits. It is uncontroverted that the verifications, requested by the Department, had been received at the time the claimant's FAP case was closed. It is also undisputed that the original verifications provided by the claimant complied with the original request.

The Administrative Law Judge finds the Department does not have authority to request the same information be verified a second time. No policy was cited by the Department to justify the second request for verification. The Department acknowledged the information was received timely in the first place. It was mishandled by the Department.

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 Food Assistance Program (FAP) benefits.

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 eligibility for FAP back to the date of closure, and
2. Conduct a review to re-determine the claimant's eligibility using the verifications originally received from the Claimant, and
3. Issue a Notice of Case Action relative to the review, and
4. Issue the Claimant any supplement he may thereafter be due.

/s/

Katherine Talbot
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/18/13

Date Mailed: 12/19/13

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

KT/tb

cc:

