

**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.: 2014-12542
Issue No(s): 3002
Case No.: ██████████
Hearing Date: December 11, 2013
County: Wayne (57)

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 December 11, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████ ah, Assistant Payment Worker, and ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective December 1, 2013, ongoing, due to his failure 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 October 16, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested copies of all check stubs received in the past 30 days and was due back by October 28, 2013. See Exhibit 1.
3. Claimant failed to submit the verifications by the due date; however, Claimant subsequently submitted the verifications on November 4, 2013. See Exhibit 1.

4. On November 4, 2013, Claimant failed to submit all the check stubs received in the past 30 days.
5. On November 4, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective December 1, 2013, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1.
6. On November 8, 2013, Claimant filed a hearing request, protesting the FAP case closure. See Exhibit 1.
7. On November 8, 2013, the Department gave Claimant an extension to submit the missing pay stubs and sent him a Quick Note requesting that Claimant send a check stub for the pay dates of 10/4/2013 and 11/1/2013 and was due back by November 18, 2013. See Exhibit 1.
8. Claimant did not submit the additional check stubs by November 18, 2013.

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.

The client must obtain required verification, but the Department must assist if they need and request help. BAM 130 (July 2013), p. 3.

If neither the client nor the Department can obtain verification despite a reasonable effort, it uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

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, p. 5. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. 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, Claimant was an ongoing recipient of FAP benefits. On October 16, 2013, the Department sent Claimant a VCL, which requested copies of all check stubs received in the past 30 days and was due back by October 28, 2013. See Exhibit 1. Claimant failed to submit the verifications by the due date; however, Claimant subsequently submitted the verifications on November 4, 2013. See Exhibit 1. On November 4, 2013, Claimant did not submit all the check stubs received in the past 30 days. On November 4, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective December 1, 2013, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1.

Additionally, the Department indicated that because the verifications were received before the negative action date, they were entered into its system. See Hearing Summary, Exhibit 1. The Department discovered that Claimant did not provide all of the check stubs received in the past 30 days. See Hearing Summary, Exhibit 1. Thus, on November 8, 2013, the Department gave Claimant an extension to submit the missing pay stubs and sent him a Quick Note requesting that he send the check stubs for the pay dates of 10/4/2013 and 11/1/2013 and was due back by November 18, 2013. See Exhibit 1. Claimant did not submit the additional check stubs by November 18, 2013.

At the hearing, Claimant agreed that he has not supplemented the missing check stubs as of this date. Claimant testified that he was unable to provide the check stub for 10/4/2013 because he was not employed at that time. Thus, it was not possible for the Claimant to provide such verification. However, Claimant testified that he did not notify the Department that he was unable to provide a check stub for that date until today's hearing.

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.

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

Claimant did not dispute that he submitted some of the check stubs until after the VCL due date. However, the submitted check stubs were received on November 4, 2013, which was before the negative action date. In the present case, Claimant's Request for a Hearing stated that Claimant can submit a timely hearing request on or before November 15, 2013. See Exhibit 1 and BAM 220, p. 11. Thus, November 16, 2013, is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Claimant clearly submitted the verifications before the negative action date. However, Claimant did not submit all the check stubs received in the past 30 days as requested in the VCL. See Exhibit 1. Moreover, Claimant did not tell the Department until today's hearing that he was not employed at the time and that he could not provide the missing pay stubs. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. Claimant failed to contact and request such help from the Department. BAM 130, p. 3. The Department even subsequently gave Claimant an extension via the Quick Note and he still did not submit the requested verifications or contact the Department. Therefore, Claimant did not meet the requirement before the negative action effective date and the negative action cannot be deleted. BAM 220, pp. 12-13.

In summary, Claimant failed to cooperate with the Department by providing the necessary forms in determining his ongoing FAP eligibility. BAM 105, p. 6. Claimant did not submit all of the requested check stubs and he failed to notify the Department in providing such verifications. Because the verification requirements were not met before the negative action effective date, the Department properly closed Claimant's FAP benefits effective December 1, 2013, ongoing.

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 properly closed Claimant's FAP benefits effective December 1, 2013, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED.



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

Date Signed: December 18, 2013

Date Mailed: December 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.

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]
[REDACTED]