

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-12822
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Washtenaw #20

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 18, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor.

ISSUES

- 1) Did the Department properly close the Claimant's Food Assistance Program (FAP) case effective November 1, 2013?
- 2) Did the Department properly determine the amount of the Claimant's FAP benefits when the case was reinstated?

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 is a recipient of FAP benefits.
2. On October 5, 2013, a Notice of Case Action was issued to the Claimant stating her FAP case would close effective November 1, 2013, because verifications were not provided.
3. On November 12, 2013, the Claimant filed a request for hearing contesting the Department's action.

4. On November 18, 2013, the Department initially determined the Claimant was eligible for FAP for November 2013 in the amount of \$ [REDACTED]
5. On November 18, 2013, the Department subsequently determined the Claimant was eligible for FAP for November 2013 in the amount of \$ [REDACTED]
6. On November 18, 2013, a Notice of Case Action was issued to the Claimant stating she was approved for FAP effective December 1, 2013, with a monthly allotment of \$ [REDACTED]
7. The Department has started a Help Desk ticket to supplement the Claimant for November 2013 FAP benefits.

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.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. BAM

130. The Department must re-register the FAP application if the client complies within 60 days of the application date. BAM 115 and BAM 130

BEM 550, 554, and 556 address the FAP budget.

In this case, the evidence indicates that after the determination to close the Claimant's FAP case effective November 1, 2013 was issued, the Department determined the Claimant is eligible for FAP benefits retroactive to November 1, 2013.

The Assistance Payments Supervisor testified that there was an error in entering information for the Claimant's November 2013 FAP budget. The FAP-EDG Net Income Results, print outs, show the error was corrected. The initial FAP budget run on November 18, 2013, indicates the Department determined the Claimant was eligible for FAP for November 2013 in the amount of \$ [REDACTED]. When the subsequent FAP budget was run on November 18, 2013, the Department determined the Claimant was eligible for FAP for November 2013, in the amount of \$ [REDACTED].

The Assistance Payments Supervisor testified that a help desk ticket was started to supplement the Claimant for November 2013 FAP benefits. However, the help desk ticket is still pending and is not considered a priority because the Claimant is still receiving benefits. The Claimant just wants this resolved.

The evidence establishes that after the determination to close the Claimant's FAP case effective November 2013 was issued, the Department determined the Claimant is eligible for FAP benefits for November 2013. The evidence further establishes that there was an error with the initial FAP budget that allowed for FAP benefits for November 2013. While this error has been corrected, the help desk ticket is still pending to issue the Claimant a supplement for November 2013 FAP benefits. Accordingly, the determination to close the Claimant's FAP case effective November 2013, and the determination of the amount of the Claimant's FAP benefits for November 2013 when the case was reinstated, cannot be upheld.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's FAP case effective November 2013, and when it determined the amount of the Claimant's FAP benefits for November 2013 when the case was reinstated.

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 FAP case retroactive to November 2013, and re-determine eligibility in accordance with Department policy.
2. Issue the Claimant any supplement she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 26, 2013

Date Mailed: December 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

CL/pw

cc:

