

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

IN THE MATTER OF:

████████████████████
████████████████████
██

Reg. No.: 2014-6423
Issue No(s): 2000; 3002
Case No.: ██████████
Hearing Date: December 18, 2013
County: Wayne (19)

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 18, 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, and ██████████ Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective October 1, 2013, due to her failure to 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 is an ongoing recipient of FAP benefits. See Exhibit 1.
2. On May 8, 2013, the Department sent Claimant a New Hire Client Notice (New Hire) regarding her son's employment and it was due back by May 20, 2013. See Exhibit 1.
3. On May 20, 2013, Claimant submitted the New Hire and submitted one of her son's pay stubs. See Exhibit 1.

4. On May 22, 2013, the Department sent Claimant a Verification Checklist (VCL) and Verification of Employment regarding her son's employment, which requested verification of her son's last 30 days of check stubs and it was due back by June 3, 2013. See Exhibit 1.
5. The Department never received the requested income verifications from the Claimant.
6. On September 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
7. On October 14, 2013, Claimant filed a hearing request, protesting the FAP case closure and Medical Assistance (MA) benefits. See Exhibit 1.

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 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.

Preliminary matters

First, Claimant is also disputing the closure of the MA benefits. See Exhibit 1. Specifically, Claimant was disputing the closure of her son's MA benefits. However, it was discovered during the hearing that her son's MA benefits are active. Thus, Claimant was no longer disputing her son's MA benefits.

Second, Claimant was also disputing her and her husband's MA benefits. See Exhibit 1. On November 1, 2013, the Department sent Claimant a Notice of Case Action notifying her that her husband's MA benefits would close effective December 1, 2013, ongoing. See Exhibit 1. The Notice of Case Action also notified Claimant that her MA benefits were denied effective December 1, 2013, ongoing. See Exhibit 1. However, this Notice of Case Action is subsequent to the Claimant's hearing request and cannot

be addressed in this hearing decision. See BAM 600 (July 2013), pp. 4-5. Claimant can request another hearing request to dispute the MA closure/denial. See BAM 600, pp. 4-5. Based on the above information, Claimant's MA hearing request is DISMISSED.

Third, on September 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1. Claimant disputed the FAP case closure when she submitted her hearing request on October 14, 2013. See Exhibit 1. However, it appears that Claimant subsequently applied for FAP benefits because on November 1, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved effective October 3, 2013, ongoing. See Exhibit 1. Based on this information, this hearing decision will essentially determine if Claimant is entitled to FAP benefits for the time period of 10/1/2013 to 10/2/2013. The eligibility summary showed that Claimant's FAP benefits ended 9/30/2013, however, the benefits were active again from 10/3/2013, ongoing. See Exhibit 1.

FAP benefits

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

For FAP cases, the Department allow 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, Claimant is an ongoing recipient of FAP benefits. See Exhibit 1. On May 8, 2013, the Department sent Claimant a New Hire regarding her son's employment and it was due back by May 20, 2013. See Exhibit 1. On May 20, 2013, Claimant submitted the New Hire and submitted one of her son's pay stubs. See Exhibit 1. It should be noted that the Department's hearing summary indicated that the Claimant did not return any pay stubs with the New Hire. See Exhibit 1. This is contradictory information as the Department testified during the hearing that it received one pay stub with the New Hire and even presented it as evidence. See Exhibit 1. Nevertheless, the Department testified that it needed her son's last 30 days of check stubs. Thus, on May 22, 2013, the Department sent Claimant a VCL and Verification of Employment and it was due back by June 3, 2013. See Exhibit 1. The Department never received the requested income verifications from the Claimant. Therefore, on September 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

At the hearing, Claimant agreed that she provided the New Hire and submitted one her son's pay stubs. A review of the New Hire indicated that her son began employment on April 28, 2013, thus, it is reasonable to conclude that the Claimant could only provide the Department with one pay stub. See Exhibit 1. Moreover, Claimant testified that she thought that she would only provide the next pay stubs on her next eligibility review date as stated in the New Hire. See Exhibit 1.

Additionally, the Department acknowledged that Claimant could only provide one pay stub and testified that the reason it sent the subsequent VCL was to obtain the additional income verifications. Claimant testified, though, that she could not recall if she received the VCL and Verification of Employment dated May 22, 2013. See Exhibit 1. Claimant testified that she does not have issues receiving her DHS correspondence or third party mail. Claimant testified that her address has not changed throughout this time period. The Department testified that it did not receive any unreturned mail or contact from the Claimant.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

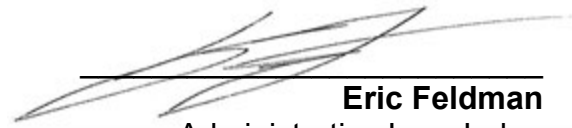
Based on the foregoing information and evidence, the Department properly closed Claimant's FAP case effective October 1, 2013, ongoing, in accordance with Department policy. First, it is found that Claimant failed to rebut the presumption of proper mailing. The Department provided credible evidence and testimony that it properly sent the VCL and Verification of Employment to the Claimant. See Exhibit 1. Moreover, the Department did not receive any unreturned mail. Second, it is acknowledged that Claimant could not provide any additional pay stubs at the time of the New Hire because her son had just begun his employment. However, the Department properly sent a subsequent VCL and Verification of Employment request in order to obtain her son's past 30 days of income. Claimant failed to submit the requested verification by the due date. Claimant must complete the necessary forms to determine her ongoing FAP eligibility. BAM 105, p. 6. Because the VCL and Verification of Employment were properly mailed and Claimant failed to submit the requested verification prior to the due date, the Department acted in accordance with Department policy when it closed Claimant's FAP case effective October 1, 2013. BAM 130, p. 6.

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 case effective October 1, 2013.

Accordingly, the Department's FAP decision is AFFIRMED.

IT IS ALSO ORDERED that Claimant's MA hearing request is DISMISSED.



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

Date Signed: December 20, 2013

Date Mailed: December 20, 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]
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