

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-7899
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: December 12, 2013
County: Ottawa

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in person hearing was held on December 12, 2013, from Holland, Michigan. Participants on behalf of Claimant included Claimant and her [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department of human services properly cancel Claimant's Food Assistance Program (FAP) benefits based upon its determination that Claimant failed to provide verification information?

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 a Food Assistance Program benefit recipient.
2. Claimant's Food Assistance Program benefits are scheduled for redetermination on September 10, 2013.
3. On September 10, 2013, Claimant filed an online application at 11:34 AM.
4. The worker updated the new information into bridges and sent out a verification checklist to get proof of income and assets from Claimant.
5. The worker determined that based on the income that was stated in the online bridges application that Claimant has excess income for continued food benefits.

6. On September 30, 2013, the worker attempted to contact Claimant to conduct a telephone interview.
7. On September 30, 2013, Claimant submitted verification information through the online service.
8. On September 30, 2013, the Department caseworker set Claimant notice that her Food Assistance Program benefits would be canceled effective September 30, 2013 based upon the fact that Claimant failed to provide verification of identity, bank account savings, vehicle value, self-employment payments, bank account checking, unearned income payment verification, vehicle ownership for Claimant as well as verification of [REDACTED] expenses, [REDACTED] and verification of bank account savings, loss of employment, and bank account checking for [REDACTED].
9. On October 18, 2013, Claimant filed a request for hearing to contest the Department's negative action, alleging that she did provide verification information on September 30, 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.

Pertinent Department policy dictates:

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send 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.

Note: For FAP only, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing.

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

Exception: At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification; see BAM 210. BAM, item 130, pages 1 – 2.

An interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. Do **not** deny the application if the client has not participated in the initial interview until the 30th day after the application date **even** if he/she has returned all verifications. BAM, item 115, pages 17 – 18.

In the instant case, no one from the Department testified from personal knowledge. The caseworker who actually worked on the case was not present for the hearing. The information contained in the file indicates that Claimant actually returned verification information on September 30, 2013. The verification checklist appears to have been sent out on September 19, 2013. A September 30, 2013 note from the Department indicates that Claimant turned in some of her proofs that never called to conduct a telephone interview. However, Claimant provided information that she attempted to contact the caseworker on numerous occasions. The Department representative who was present for the hearing conceded on the record that the notice is incorrect, and that it is for failure to provide verification information but Claimant's testimony indicates that she did provide verification information on September 30, 2013. Claimant's testimony is not rebutted by evidence on the record.

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 has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Claimant was no longer eligible to receive Food Assistance Program benefits based upon its determination that Claimant failed to provide verification information timely manner.

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 Claimant's Food Assistance Program redetermination application and re-determine Claimant's eligibility for Food Assistance Program benefits in accordance with Department policy.
2. Provide Claimant with notice of her eligibility or lack thereof and the reasons for the determination in accordance with Department policy

/s/
Landis Y Iain
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.

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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

LYL/tb

cc:

