

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-8676
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: November 27, 2013
County: Kalamazoo

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, a telephone hearing was held on November 27, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], Group Member. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist, and [REDACTED], Case Manager.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) benefits for failure to verify income?

FINDINGS OF FACT

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

1. On September 24, 2013, the Department received a report that a member of the Claimant's group received [REDACTED]. The report indicated [REDACTED], the Claimant's [REDACTED] received \$ [REDACTED] in [REDACTED].
2. On October 4, 2013, the Department sent a verification checklist to the Claimant. Exhibit 3. The checklist requested that the Claimant [REDACTED] for [REDACTED]. *Id.*
3. The Claimant received the verification checklist.
4. [REDACTED] did not receive any [REDACTED].

5. The Claimant attempted to contact [REDACTED]. She called and left a message. She also sent a written statement indicating there were no [REDACTED] and requesting information.
6. [REDACTED] did not receive calls or any written communication from the Claimant.
7. On October 15, 2013, a Notice of Case Action was sent to the Claimant. Exhibit 4.
8. On October 22, 2013, the Department received the Claimant's Request for Hearing. Exhibit 2.
9. The Claimant spoke with [REDACTED] on October 31, 2013. She was instructed to contact the [REDACTED].
10. At the time of the hearing, the Claimant presented the Department with a letter dated [REDACTED]. The letter was not submitted as a potential exhibit prior to the hearing. The letter stated [REDACTED] did not have [REDACTED]. The letter specifically referenced her [REDACTED].

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.

Bridges Administrative Manual (BAM) 130 pp. 2, 3, provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using a DHS-3503, Verification Checklist to request verification.

The Claimant must obtain required verification, but the Department's worker must assist if they need and request help. BAM 130 (2012) p. 5, provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the client indicates a refusal to provide a verification, or when the time period given has elapsed and the client has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines the Claimant attempted to obtain assistance with the requested verification. The Claimant's [REDACTED] did not receive [REDACTED]. The Claimant did not know how to establish this fact. She left a message for [REDACTED]. The Claimant indicated she did not know how to comply with the requested verification. This is a request for assistance. [REDACTED] did not return the Claimant's call. She indicated the call was not received.

And, the Claimant spoke with [REDACTED] on October 31, 2013. The undisputed evidence established that the Claimant told [REDACTED] the group had not received [REDACTED]. At that time the Claimant's case had not closed. There was still time to provide assistance to the Claimant. And, once the Claimant was instructed on how to provide verification, she did so within a few days.

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) case.

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. Re-determine the Claimant's eligibility for Food Assistance Program back to the date of closure, November 1, 2013.
2. Issue the Claimant any supplement that she may thereafter be due.

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

Date Signed: 12/5/13

Date Mailed: 12/6/13

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:

