

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

IN THE MATTER OF:



Reg. No.: 2013-48374
Issue No.: 3008
Case No.:
Hearing Date: July 8, 2013
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On May 3, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting proof by May 13, 2013, of his income between June 2012 and February 2013 and his February 2013 end of employment. The Department also sent Claimant's employer a Verification of Employment (VOE) concerning Claimant's employment.
3. On May 14, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP case was going to close because he had failed to timely provide requested verifications.
4. On May 15, 2013, the Department received the VOE completed by Claimant's employer.
5. On May 14, 2013, Claimant filed a hearing request, protesting the denial of the application. closure of his FAP case.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

Additionally, after the Department sent Claimant a February 13, 2013, New Hire Client Notice asking for verification of employment, Claimant advised the Department that his employment had ended in February 2013. On May 3, 2013, the Department sent Claimant a VCL requesting by May 13, 2013, all paystubs between June 2012 and February 2013 and an employment statement regarding his February 2013 loss of employment. The Department also sent Claimant's employer a VOE on May 3, 2013.

Although the Department did not include the relevant Notice of Case Action concerning Claimant's FAP case in the hearing packet, it testified that, when it did not receive the requested verifications by the May 13, 2013, due date, it sent Claimant a Notice of Case Action on May 14, 2013, notifying him of the closure of his FAP case due to his failure to provide requested verifications. On May 14, 2013, Claimant filed a request for hearing, identifying that he was concerned about the Department's action concerning his FAP benefits and referencing the verification documents.

At the hearing, the Department acknowledged that it received the VOE from Claimant's employer on May 15, 2013, the day after the Notice of Case Action was sent and before Claimant's FAP case was due to close. When the Department receives the information necessary to meet the requirement that caused the negative action before the negative

action effective date, the Department must delete the negative action. BAM 220 (November 2012), p. 10. Because the VOE provided to the Department on May 15, 2013, was responsive to the proof requested in the VCL and received prior to the negative action effective date, the Department must, in accordance with Department policy, reinstate Claimant's FAP case.

At the hearing, the Department testified about an anticipated reduction to Claimant's monthly FAP benefits to \$16 as a result of the income on the VOE being budgeted into Claimant's FAP budget. Claimant expressed concerns about whether the Department was properly considering his child support payments and current shelter expenses. The Department is required to deduct child support expenses, including payment of arrearages, and consider verified shelter expenses in the calculation of a client's FAP benefits. See BEM 554 (October 2012), pp. 4-6, 10-11. To verify actual child support and arrearages paid, the Department may rely on wage withholding statements or data obtained from the State's Child Support Enforcement System. BEM 554, pp. 5-6.

However, at the time Claimant filed his May 14, 2013, hearing request, the Department had not recalculated Claimant's FAP budget or notified Claimant of a decrease in his monthly FAP benefits, and Claimant continued to receive his monthly \$200 FAP allotment pending the hearing. See BEM 505 (October 2010), pp. 9-10; BAM 600 (February 2013), pp. 18-20. Thus, the reduced FAP benefits were not properly an issue at the present hearing. Mich Admin Code R 400.903(1). Claimant is advised that he may request a hearing if he does not agree with the Department's recalculation of his FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP case for failure to provide requested verifications.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case effective as of the date of closure;
2. Begin recalculating Claimant's FAP budget in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements for any FAP benefits Claimant was eligible to receive but did not from the effective date of the case closure ongoing; and

4. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 11, 2013

Date Mailed: July 11, 2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

