

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-59694
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 22, 2013
County: Macomb DHS (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 22, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's Food Assistance Program (FAP) application due to a failure by Claimant to verify expenses.

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 6/10/13, Claimant applied for FAP benefits.
2. Claimant's application asserted that Claimant had various expenses including: property insurance, medical and mortgage.
3. On 6/17/13, DHS mailed Claimant a Verification Checklist (Exhibits 1-2) requesting proof of Claimant's expenses.
4. The VCL due date was 6/27/13.
5. Claimant failed to return proof of expenses.

6. On 7/8/13, DHS mailed Claimant a Notice of Case Action informing Claimant of a denial of FAP benefits due to a failure to verify various items including income, assets and expenses.
7. On 7/23/13, Claimant requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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 Mich Admin Code, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a denial of FAP benefits. The Notice of Case Action (Exhibits 3-4) presented by DHS stated that Claimant failed to verify the following information: bank account, property tax expenses, earned income payments, mortgage expenses and insurance expenses. The testifying DHS specialist was specifically asked whether Claimant failed to verify all of the items listed on the Notice of Case Action. DHS responded with testimony that Claimant only failed to verify expenses for mortgage, property taxes and medical. Based on the DHS testimony, it was not disputed that Claimant's FAP benefit application was denied solely due to Claimant's failure to verify medical, mortgage and property tax expenses.

DHS contended that the failure to verify those expenses justified a denial of the application. Claimant conceded his failure to verify expenses.

DHS must verify the responsibility to pay and the amount of certain expenses. BEM 554 (10/2012), p. 2. DHS is to not budget expenses that require verification until the verification is provided. *Id.* DHS is to determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. *Id.*

Based on the above-cited policy, DHS had no basis to deny Claimant's FAP application. DHS should have determined Claimant's FAP eligibility while giving Claimant no credit for the expenses conceded by Claimant as unverified. Accordingly, the denial of Claimant's FAP application was improper.

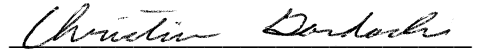
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FAP benefits. It is ordered that DHS:

- (1) reinstate Claimant's FAP application dated 6/10/13;

- (2) process Claimant's FAP eligibility subject to the finding that DHS may not deny Claimant's eligibility due to a failure to verify medical, mortgage or property tax expenses; and
- (3) initiate a supplement of any benefits improperly not issued.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 8/30/2013

Date Mailed: 8/30/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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

CG/hw

cc:

