

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-67830
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: October 9, 2013
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 October 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to failure to submit a completed Semi-Annual Contact Report?

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 an ongoing recipient of FAP benefits.
2. On July 1, 2013, the Department sent Claimant a Semi-Annual Contact Report requesting that the completed document be returned by August 1, 2013.
3. On July 11, 2013, Claimant applied for State Emergency Relief (SER) assistance with gas and electrical services and included verification of her employment income with the application.
4. On August 10, 2013, the Department sent Claimant a Notice of Potential Food Assistance (FAP) Closure notifying her that it had not received a completed Semi

Annual form and that, without this form, her FAP case would close effective August 31, 2013.

5. Claimant did not submit a completed Semi-Annual form to the Department.
6. On August 31, 2013, Claimant's FAP case closed.
7. On September 6, 2013, Claimant filed a request for hearing, disputing the Department's actions.

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.

Additionally, a Semi-Annual Contact Report (DHS-1046) is sent to clients with countable earnings and a 12-month benefit period at the beginning of the fifth month. BAM 210 (July 2013), p. 7. Clients must submit the signed form, with all of the sections answered completely and required verifications returned. BAM 210, p. 7. If the DHS-1046 is not logged in by the tenth day of the sixth month, the Department must send the client a DHS-1046A, Potential Food Assistance (FAP) Closure, which explains that the client must return the DHS-1046 and all required verifications by the last day of the month or the case will close. BAM 210, p. 9. If the client fails to return a completed DHS-1046 by the last day of the sixth month, Bridges will automatically close the case. BAM 210, p. 9.

In this case, the Department established that it sent Claimant a Semi-Annual on July 1, 2013, with an August 1, 2013, due date. When it did not receive the completed Semi-Annual, it sent Claimant a Notice of Potential Food Assistance Closure on August 10, 2013, advising her that she would not receive FAP benefits for the next month if she did not return the completed Semi-Annual and verifications.

At the hearing, Claimant acknowledged that she received both the Semi-Annual Contact form and the Notice of Potential FAP Closure but that she did not complete the Semi-Annual because she had recently submitted a SER application with all of her income verifications and believed she had received the Semi-Annual form in error because the Department had all the necessary information. Claimant testified that, after she received the August 10, 2013, Notice, she called her worker to ask if the form was sent to her in error, but never received a response. Claimant's worker denied receiving a

voicemail message but testified that he spoke to Claimant in connection with processing her July 11, 2013, SER application and advised her that she was required to complete the Semi-Annual Contact Report. Claimant contended that the Department did not advise her of her obligations until after her case closed.

The Department is required to assist clients who ask for help in completing forms or gathering verifications and must be particularly sensitive to clients who are illiterate, disabled, or not fluent in English. BAM 105 (March 2013), p. 10. In this case, Claimant did not request assistance with completing the Semi-Annual. Rather, she requested confirmation from the Department as to whether the documentation was properly sent to her. The Semi-Annual clearly states

“[y]ou must complete this form, sign and date it, and return it to your specialist with proof of changes by 08/01/2013, or your Food Assistance case will close effective 08/31/2013.”

The Notice of Potential FAP Closure reiterated that Claimant’s FAP case would close effective August 31, 2013, because she had not returned her Semi-Annual or the required information. While the Notice advised her to contact her worker if she believed she “received the notice in error,” the language, within the context of the notice, references an error concerning the Department’s records indicating that she had not returned the Semi-Annual form or required information.

Based on the facts in this case, where the Department properly sent the Semi-Annual form and Notice of Potential FAP Closure and Claimant did not submit a completed Semi-Annual form, the Department acted in accordance with Department policy when it closed Claimant’s FAP case.

DECISION AND ORDER

Accordingly, the Department’s decision is AFFIRMED.



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

Date Signed: October 15, 2013

Date Mailed: October 15, 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

ACE/pf

cc:

