

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

IN THE MATTER OF:



Reg. No.: 2014-15694
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: January 9, 2014
County: Gratiot County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 9, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Lorraine Strouse, the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Assistance Payments Worker, and [REDACTED] [REDACTED] Assistance Payments Worker.

ISSUE

Did the Department properly deny the Claimant's Food Assistance Program (FAP) review based on a failure to comply with verification requirements?

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, a Hearing Decision¹ was issued ordering the Department to re-instate the Claimant's FAP program redetermination and process in accordance with Department policy "to include requesting sufficient verifications to determine Claimant's income and how BEM 400 should be applied to Claimant's business checking accounts."
2. The Department did not request any additional verification(s).
3. The Department determined that the Claimant's FAP benefits would remain closed because the Department could not accept a Verification of Employment form the Claimant previously provided in July 2013 in response to a Verification Checklist.

¹ Michigan Administrative Hearing System Register Number 2013-64075.

4. On November 19, 2013, a Benefit Notice was issued to the Claimant indicating the FAP benefits would stop July 1, 2013 because the FAP review was denied.
5. On November 26, 2013, the Claimant filed a request for hearing contesting the Department's action.

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 Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. The Department is to send a case 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. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. BAM 130. The Department must re-register the FAP application if the client complies within 60 days of the application date. BAM 115 and BAM 130.

On September 24, 2013, a Hearing Decision was issued regarding the Claimant's FAP case under Register Number 2013-64075. The ALJ ordered the Department to reinstate the Claimant's FAP program redetermination and process in accordance with

Department policy “to include requesting sufficient verifications to determine Claimant’s income and how BEM 400 s should be applied to Claimant’s business checking accounts.”

On November 19, 2013, a Benefit Notice was issued to the Claimant indicating the FAP benefits would stop July 1, 2013 because the FAP review was denied. However, the Assistance Payments Worker confirmed that the Department did not request any additional verification(s). Rather, the Department determined that the Claimant’s FAP benefits would remain closed because the Department could not accept a Verification of Employment form the Claimant previously provided in July 2013 in response to a Verification Checklist. (See Exhibit A, pages 4-9)

It is noted that the Verification of Employment form was listed as one of the acceptable proofs of wages on the June 27, 2013 Verification Checklist. (Exhibit A, pages 4-5) In the September 24, 2013 Hearing Decision, the ALJ’s order specified that the Department was to request sufficient verifications to determine the Claimant’s income. The Department failed to request any verification(s) of income when the FAP review was re-instated.

Additionally, the evidence indicates that the Claimant attempted to provide the requested verifications for the June 27, 2013 Verification Checklist. The Claimant testified that when the Verification Checklist was issued she understood the Department wanted proof of income from employment with Willsub. The Claimant stated that she explained to the Department that she had not worked for Willsub for a few years and the Department then directed her to obtain verification this employment ended.

The Claimant completed the Verification of Employment form for Willsub, which had been sent with the Verification Checklist. The form specifies that the Employer is to provide the information requested on the form. (Exhibit A, pages 6-9) It is understandable that the Department could not accept just the Verification of Employment form completed by the Claimant. However, the Claimant also wrote a note at the bottom of the form directing the Department to see her 1040s showing there was no income from this employer in 2012 or 2013. (Exhibit A, pages 8-9) Accordingly, it appears that the Claimant had also provided additional documentation to the Department that could have been used to verify that the Claimant had stopped working for Willsub for the July 2013 FAP review.

The Claimant testified that Willsub will not complete any forms provide or provide any other type of verification themselves. Rather, Willsub directs that The Work Number be utilized for obtaining verification.

The Claimant submitted a recent printout from The Work Number, which also documented that on September 26, 2013, the Department requested the Claimant’s data. (Exhibit 1) The testimony of the Assistance Payment Workers indicates they did not request this information in September 2013. It is not known who from the Department requested this information, why it was requested, or why any verification that was obtained was not recorded. However, The Work Number documentation

indicates that at the time of the November 19, 2013, determination the Department had also requested the needed verification themselves.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's FAP review based on a failure to comply with verification requirements.

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-instate the Claimant's FAP case retroactive to the July 1, 2013, effective date and re-determine eligibility in accordance with Department policy, to include requesting any additional verifications that may still be needed to determine eligibility.
2. Issue the Claimant any supplement she may thereafter be due.

/s/ _____
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 13, 2014

Date Mailed: January 14, 2014

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

CL/hj

cc:

