

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

IN THE MATTER OF:



Reg. No.: 2014-14034
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Washtenaw 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 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly deny the Claimant's Food Assistance Program (FAP) application 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 October 3, 2013, the Claimant applied for FAP.
2. On October 7, 2013, a Verification Check list was sent to the Claimant stating what verifications were needed by the October 17, 2013 due date.
3. On October 23, 2013, a Notice of Case Action was issued to the Claimant stating FAP was denied because verifications were not returned.
4. On October 25, 2013, the Department received requested verifications from the Claimant.
5. On November 14, 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 re-determination 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 October 3, 2013, the Claimant applied for FAP. On October 7, 2013, a phone interview was conducted with the Claimant and needed verifications were discussed. On October 7, 2013, a Verification Check list was sent to the Claimant stating what verifications were needed by the October 17, 2013 due date. The Claimant did not return the verifications by the October 17, 2013 due date. Accordingly, on October 23, 2013, a Notice of Case Action was issued to the Claimant stating FAP was denied because verifications were not returned.

On October 25, 2013, the Department received requested verifications from the Claimant. The Claimant feels she did not have sufficient time to provide the verifications from the time she received the verification checklist in the mail to the due date. The Claimant testified that she got the verifications to the Department as soon as she could.

In this case, the Department allowed the required 10 calendar days to provide the requested verifications. The BAM 130 policy indicates that the Department is to deny a FAP application once the due date for providing verifications has passed if the verifications have not been submitted. The due date for providing verifications in this case was October 17, 2013. The October 23, 2013 denial of the Claimant's FAP application was in accordance with policy when the Notice of Case action was issued because the verifications had not been provided.

However, BAM 130 and BAM 115 direct the Department to re-register the FAP application if the client complies within 60 days of the application date. The Claimant applied for FAP on October 3, 2013 and complied with the request for verifications on October 25, 2013. Accordingly, the Department should have re-registered the Claimant's FAP application.

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

- acted in accordance with Department policy when it .
- did not act in accordance with Department policy when it failed to re-register the Claimant's FAP application when she complied with the verification requirements within 60 days of the application date.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.**
- AFFIRMED IN PART with respect to and REVERSED IN PART with respect to .
- 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-register the Claimant's October 3, 2013 FAP application and determine eligibility in accordance with Department policy.

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 10, 2014

Date Mailed: January 10, 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

201414034/CL

CL/hj

cc:

