

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-16747
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: January 14, 2014
County: Macomb-12

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 14, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an on-going FAP recipient.
2. On October 28, 2013 Claimant submitted a Semi-Annual Contact Report along with handwritten reports of her earnings and expenses for August, September, and October of 2013.
3. On November 22, 2013, a Verification Checklist was sent to Claimant, with a due date of December 2, 2013, requiring Claimant to provide additional documentation to substantiate her reported income and expenses.
4. Claimant did not respond with verification by the due date and, on December 4, 2013, her FAP was closed.
5. On December 9, 2013, Claimant submitted copies of tax records for the 2012 tax year, and a hearing request.

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.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Claimant explained that she submitted documentation in October reflecting her income and expenses. However, the Verification Checklist was mailed to her approximately four weeks later, instructing her to provide:

“One of three sources to verify your self-employment income and expenses. First source, tax returns from 2012 to verify self-employment income and expenses. Second source, the past three months self-employment statements (DHS-0431) with all income and expenses listed with all receipts for both income and expenses. Third source, the past three months self-employment statements (DHS-0431) without receipts for both income and expenses which will generate a fee investigation. Failure to provide verifications by the due date will cause your case to be closed.”

She did not respond and her case was closed. After the case was closed, she provided copies of her 2012 tax return.

In her 2012 “Profit or Loss from Business” (Schedule C) Claimant reported advertising expenses, supplies, and other expenses associated with her job as a nail technician. In Part V of the attachment she identified the other expenses as “Booth Rental” which made up the full \$ [REDACTED] in other expenses she reported. She claimed advertising expenses of \$ [REDACTED] and supplies of \$ [REDACTED]. Gross receipts for that year were \$ [REDACTED]. Her net profit was \$ [REDACTED]. See Exhibit 9.

In the Semi-Annual Contact Report (Exhibit 1) claimant was asked if her income had changed by more than \$ [REDACTED] from the monthly gross income of \$ [REDACTED] used in her FAP budget. Claimant did not answer that question. Instead she provided handwritten statements of her monthly income, and copies of numerous receipts for supplies and booth rent.

Date Income		Date Expense	
10/2/13 \$		10/6/13	
10/3/13 \$		10/11/13	
10/4/13 \$		10/14/13	
10/5/13 \$		10/21/13	
10/8/13 \$		10/5/13	
10/9/13 \$		10/12/13	
10/10/13 \$		10/19/13	
10/11/13 \$		10/26/13	
10/16/13 \$			
10/17/13 \$			
10/19/13 \$			
10/22/13 \$			
10/23/13 \$			
10/24/13 \$			
10/25/13 \$			
10/26/13 \$			
Total		Total	

Based upon the October income and expenses, Claimant's profit for the month was \$ [REDACTED] far below her average for the prior year. If the Claimant would have completed the DHS-431 for each month, it is possible she could have received MORE in FAP. But, she did not provide ANY documentation in response to the request. Whether she could have received more or less is not the issue in this decision. The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Verification Checklist was mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond by the deadline. Because she did not comply by timely providing her verification, she was properly subject to negative action.

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 closed Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
 Administrative Law Judge
 for Maura Corrigan, Director
 Department of Human Services

Date Signed: January 15, 2014

Date Mailed: January 15, 2014

NOTICE OF APP EAL: 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

DTJ/las

cc:

