

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-16981
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: January 15, 2014
County: Lapeer

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 15, 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] and Assistance Payments Supervisor, [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Child Development Care (CDC) 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. Claimant was an on-going FAP and CDC recipient.
2. On November 4, 2013, Claimant reported that her husband had lost his job at [REDACTED] because the business had burned down.
3. On November 7, 2013, the Department recorded in its system that the husband's employment had ended, and a Verification on Check list was mailed instructing Claimant to verify her husband's loss of employment.
4. In a November 13, 2013 Notice of Case Action, the Department informed Claimant that her CDC was closed because her husband was no longer working and thus was available to stay home and watch the children during non-school hours.
5. In a December 3, 2013 Notice of Case Action, the Department informed Claimant that her FAP was closed because she had not verified her husband's loss of

employment, and because one of the group members was no longer living with the group.

6. On December 6, 2013, the Claimant requested a hearing on her FAP and CDC benefits.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

“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.

The Department accepted as true for purposes of determining her CDC eligibility that Claimant’s husband had lost his job. BEM 703 identifies the CDC program requirements. “In two-parent households, both parents’ need reasons must be verified with the appropriate verification.” “For CDC eligibility to exist for a given child, each parent/substitute parent (P/SP) must demonstrate a valid need reason.” “Valid need reasons” include family preservation, high school completion, an approved activity, and employment. While both parents were working the Department found that both parents in this case had demonstrated a valid need reason. When the client reported that her husband was no longer working, they no longer had shown that both parents had demonstrated a valid need reason.

The Department accepted, for purposes of concluding that she was no longer eligible for CDC, that her husband had lost his job. It did not, however, accept her statement for purposes of determining her FAP eligibility. She was required to verify, in effect, his non-employment. The burden is on the client to establish eligibility for benefits and, as

stated above, for a couple to be eligible for CDC they have to show that they both have a valid need reason. When a client reports that her spouse is no longer employed, they are in effect stating that they no longer have a need because in this case the need was only shown when they originally verified that both parents were working and child care was needed during their work hours.

When Claimant reported her husband lost his job, the Department properly requested verification. See Exhibit 1, Page 9. Proof was due by November 18, 2013. Per BEM 103, the Department is to:

“Send a negative 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 instructs, with respect to the FIP, SDA, MA and AMP programs, “A collateral contact is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification.

“The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtaining the verification.”

BAM 130 does NOT place responsibility on the Department to make collateral contact for FAP applicants or recipients. For all programs, when it comes to verification, BAM 130,

“The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The Claimant testified that she repeatedly told her case worker that she was having problems obtaining verification from her husband’s employer. She testified that she had made repeated calls to the employer and with each call she was either told she needed to call someone else, or they could not talk to her because it was information they could only release to her husband because he was the (former) employee. She also testified that the fire and the closing of the business were prominent in the local news at the time they occurred. And, she testified she repeatedly asked her case worker, “What more do you need me to do?”

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. However, she was convincing in her explanation for why she did not respond. She repeatedly called her case worker. She repeatedly called her husband's former employer. While she might not have explicitly requested help from her case worker, given the difficulties she was having – and that she expressed her difficulties to her worker – the Department should have attempted to assist her in obtaining the required verification. Alternatively, the Department could presumably have done a quick online search to see if the business had in fact burned down and laid off much of its work force.

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 CDC benefits. It did not act in accordance with Department policy when it closed Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to CDC and REVERSED IN PART with respect to FAP.

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. Redetermine Claimant's FAP benefit eligibility, effective January 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



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

Date Signed: January 17, 2014

Date Mailed: January 17, 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

DTJ/las

cc:

