

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-19904  
Issue No(s): 3002, 3003  
Case No.: [REDACTED]  
Hearing Date: January 29, 2014  
County: Macomb County DHS #20

**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 29, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

**ISSUE**

Did the Department properly process the Claimant's October 2013 Redetermination for the Food Assistance Program (FAP)?

**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's FAP case was due for Redetermination in October 2013.
2. A Redetermination interview was completed and some verifications were submitted.
3. On October 29, 2013, a Verification Checklist was issued to the Claimant stating wage verification needed to be submitted by the November 8, 2013 due date.
4. On November 5, 2013, the Claimant's employer faxed the Eligibility Specialist documentation of the Claimant's October 2013 earnings.

5. On December 20, 2013, the Claimant filed a request for hearing contesting the Department's actions regarding FAP.
6. The Claimant's FAP Redetermination was still pending as of the January 29, 2014 hearing date.

### **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. 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.

Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. A redetermination packet is considered complete when all of the sections of the redetermination form including the signature section are completed. If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210.

The Claimant's FAP case was due for Redetermination in October 2013. A Redetermination interview was completed November 2, 2013. The Claimant asserts that she provided all the verifications that the Department requested. The Claimant stated that when she had provided pay stubs previously for the Redetermination, she included a note explaining if a week is missing, it is because she did not work that week. The Claimant is on call for work.

On October 29, 2013, a Verification Checklist was issued to the Claimant stating proof for wages needed to be submitted by the November 8, 2013 due date. (Exhibit A, pages 2-3) While one of the listed acceptable listed proofs was a DHS-38 Verification of Employment form, the Eligibility Specialist testified this form was not sent to the Claimant until November 6, 2013.

The Claimant testified she did not receive the Verification Checklist but received a call from the Eligibility Specialist on November 5, 2013 and understood one October 2013 pay stub was missing and the Eligibility Specialist wanted to see year to date earnings for October 2013. On November 5, 2013, the Claimant's employer faxed the Eligibility Specialist documentation of the Claimant's October 2013 earnings. (Exhibit A, pages 10-12) The Eligibility Specialist testified she never received this fax. However, the Claimant has provided the fax transmission confirmation page. (Exhibit A, page 12) Accordingly, it appears the fax was received by the Department, but may have been lost before it was given to the Eligibility Specialist or placed in the Claimant's case file.

The Eligibility Specialist noted that on a November 6, 2013 Notice of Case Action, it was stated which check stubs for October were still needed or that the enclosed verification of employment form could be completed. (Exhibit A, page 4) It is noted that this was on a notice issued solely for a Medicaid program, not a notice for the FAP case. Further, the Claimant testified she did not receive a Verification of Employment form with this notice.

The Eligibility Specialist testified that the Claimant's FAP Redetermination was still pending as of the January 29, 2014 hearing date. However, the Claimant's FAP benefits would have stopped when the prior certification period ended. The Eligibility Specialist also explained that the documentation the employer faxed on November 5, 2013 was not sufficient, particularly given the difference in company names from the previous submission of two other October pay stubs. However, the Claimant testified she recently provided additional verifications on Monday January 27, 2014 for another Verification Checklist. The Eligibility Specialist testified she has not had a chance to receive and review these documents.

The evidence indicates that both the Claimant and the Department have had trouble receiving written correspondence. There is sufficient evidence that the Claimant has attempted to timely provide the requested wage verification, specifically the November 5, 2013 fax of the October 2013 earnings with transmission confirmation. The Department should finish processing the Claimant's Redetermination. If additional verifications are still needed for the Redetermination, the Department should clearly explain what proofs are still needed, how to provide them including providing the Claimant with any forms that need to be completed and the due date.

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 processed the Claimant's October 2013 FAP Redetermination.

### **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. Complete the October 2013 Redetermination of the Claimant's FAP case, to include requesting any additional verifications that may still be needed, and determine eligibility in accordance with Department policy.
2. Issue the Claimant any supplement she may thereafter be due.
3. Issue the Claimant written notice of any case actions in accordance with Department policy.



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

Date Signed: February 7, 2014

Date Mailed: February 7, 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:

