

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

IN THE MATTER OF:



Reg. No.: 2014-19981
Issue Nos.: 3002, 6001
Case No.: [REDACTED]
Hearing Date: January 27, 2014
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) and Child Development and 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. On [REDACTED], 2013, Claimant applied for CDC benefits.
2. On [REDACTED], 2013, Claimant applied for FAP benefits.
3. On [REDACTED], 2013, the Department sent Claimant a Verification Checklist (VCL) requesting, among other things, by [REDACTED] 2013, verification of "other unearned" through a recent check stub or letter or document from the person or agency making payment.
4. On [REDACTED], 2013, Claimant submitted a timely response to the VCL.

5. On [REDACTED], 2013, the Department sent Claimant a Notice of Case Action denying her CDC and FAP applications.
6. On [REDACTED], 2013, Claimant filed a request for hearing disputing 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.

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.

Additionally, Claimant requested a hearing concerning the denial of her FAP and CDC applications. The [REDACTED], 2103, Notice of Case Action notified Claimant that both applications were denied because she had failed to verify requested information.

At the hearing, the Department clarified that Claimant had provided all requested information except for verification of her unemployment benefits. The Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2013), p. 3. In a [REDACTED], 2013, VCL, the Department requested verification of "other unearned" through a recent check stub or letter or document from the person/agency making payment. Claimant testified that she did not understand that the VCL request sought verification of her unemployment benefits. She credibly testified that, after she submitted her verifications on [REDACTED], 2013, well before the [REDACTED], 2013 due date, she called her worker several times to confirm that she had received the VCL response and to ask if any further information was needed and received no response prior to the denial. It was only when she was called in connection with her hearing request that she was informed that her applications were denied because she had failed to verify her unemployment income.

Clients must take actions within their ability to obtain verifications, and the Department must assist when necessary. BAM 130, p. 3; BAM 105 (October 2013), p. 11. The evidence presented shows that Claimant attempted to comply with the VCL and that she requested assistance in providing requested documents. Furthermore, the VCL did not clearly indicate that information concerning unemployment benefits was sought. Under the facts presented, the Department did not act in accordance with Department policy when it denied Claimant's CDC and FAP applications for failure to verify.

At the hearing, the Department testified that, although not listed as a reason on the Notice of Case Action, Claimant's CDC application was also denied because she lacked a need for such benefits. In order to be eligible for CDC benefits, a client has to establish a need for such benefits based on family preservation, high school completion, an approved activity, or employment. BEM 703 (July 2013), pp. 1, 4. The Department testified that, because Claimant had indicated that she was unemployed and provided verification of her end of employment, she lacked a valid need for CDC benefits. However, Claimant testified that she was periodically called back to work and needed CDC benefits when she was working. Because the Department did not have a copy of the application at the hearing, it was unable to verify that Claimant had not established a need in her application. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's CDC application for lack of need.

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 did not act in accordance with Department policy when it denied Claimant's FAP and CDC applications.

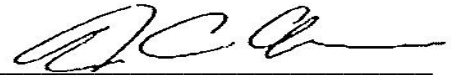
DECISION AND ORDER

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. Reregister and reprocess Claimant's [REDACTED], 2013, CDC application and [REDACTED], 2013, FAP application;
2. Issue supplements to Claimant (or Claimant's CDC provider, as applicable) for any FAP and/or CDC benefits Claimant was eligible to receive but did not from the date of application; and

3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 29, 2014

Date Mailed: January 29, 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

ACE/pf

2014-19981ACE

cc:

