

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

IN THE MATTER OF:

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██████████████████

Reg. No.: 2014-20807
Issue No(s): 3002
Case No.: ██████████
Hearing Date: January 29, 2014
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective February 1, 2014, ongoing?

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 ongoing recipient of FAP benefits.
2. On August 6, 2013, the Department sent Claimant a New Hire Client Notice (New Hire) regarding her daughter and it was due back by August 16, 2013. See Exhibit 1.
3. The Department did not receive the New Hire by the due date.
4. On September 30, 2013, Claimant submitted the New Hire. See Exhibit 1.
5. On September 30, 2013, Claimant reapplied for FAP benefits.

6. On December 13, 2013, Claimant resubmitted the New Hire along with several pay stubs. See Exhibit 1.
7. On December 23, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective February 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
8. On January 2, 2014, Claimant filed a hearing request, protesting the FAP closure. See Exhibit 1.

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. BAM 105 (October 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification it requests. BAM 130 (July 2013), p. 5. The Department sends 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, p. 6.

New Hires is a daily data exchange with Michigan Department of Treasury. BAM 807 (July 2013), p. 1. New Hires information is used to determine current income sources for active DHS clients. BAM 807, p. 1.

The Department requests verification by generating a DHS-4635, New Hire Notice, from its system. BAM 807, p. 1. When a DHS-4635 is requested, the Department automatically gives the client 10 calendar days to provide verification from the date the forms were requested. BAM 807, p. 1.

If verifications are not returned by the 10th day, the case will close for a minimum of 30 days after appropriate actions are taken in the system, unless client returns verifications. BAM 807, p. 2.

In this case, Claimant was an ongoing recipient of FAP benefits. On August 6, 2013, the Department sent Claimant a New Hire regarding her daughter and it was due back by August 16, 2013. See Exhibit 1. The Department did not receive the New Hire by the due date. Claimant testified that she received the New Hire; however, she misplaced the document and was unable to return it by the due date. Nevertheless, on September 30, 2013, Claimant submitted the New Hire and she reapplied for FAP benefits on that same day. See Exhibit 1. On December 13, 2013, Claimant resubmitted the New Hire along with several pay stubs. See Exhibit 1. On December 23, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective February 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1. The Department testified that Claimant's case closed due to her failure to provide the New Hire information within the specified time frame (August 16, 2013). See Exhibit 1.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (July 2013), p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 11. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 11. It is always the day before the negative action is effective. BAM 220, p. 11. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. BAM 220, p. 11. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, pp. 11-12.

If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the negative action. BAM 220, p. 12. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, pp. 12-13. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 13.

In the present case, Claimant's Request for a Hearing (Exhibit 1) stated that Claimant can submit a timely hearing request on or before January 3, 2014. BAM 220, p. 11. Thus, January 4, 2014, is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Claimant submitted the New Hire information on September 30, 2013 and December 13, 2013. See Exhibit 1. Even though the New Hire was submitted after the August 16, 2013 due date, Claimant met the verification requirement before the January 4, 2014 negative action date. BAM 220, p. 12.

Based on the Notice of Case Action and because the Claimant submitted the New Hire requirements before the January 4, 2014 negative action date, the Department improperly closed Claimant's FAP benefits effective February 1, 2014, ongoing. The Department should have deleted the negative action and run her FAP eligibility. See BAM 220, pp. 12-13.

DECISION AND ORDER

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 improperly closed Claimant's FAP case effective February 1, 2014, ongoing.

Accordingly, the Department's FAP 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. Reinstate Claimant's FAP case as of February 1, 2014, ongoing;
2. Begin recalculating the FAP budget for February 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from February 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 3, 2014

Date Mailed: February 3, 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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]