

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014 21604
Issue No(s) .: 3002
Case No.: ██████████
Hearing Date: February 10, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 February 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ and ██████████ Regulation Agent, Office of Inspector General.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Program (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. On December 6, 2013 Claimant applied for received:
 FIP FAP MA AMP SDA CDC
benefits.

2. The Department did not send the Claimant a request for verification regarding his employment at [REDACTED]
3. On August 1, 2013, the Department
 - denied Claimant's application.
 - closed Claimant's case.
 - reduced Claimant's benefits.
4. On December 13, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On December 18, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting 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), and Department of Human Services Reference Tables Manual (RFT).

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, In this case the Claimant applied for FAP benefits on December 6, 2013 and was denied on December 13, 2013. The Notice of Case Action which was provided by the Department after the hearing noted that the Case was closed effective August 1, 2013. The notice indicates the Claimant's FAP case was closed due to failure to verify information. The Department testified that the December 6, 2013 application was denied without sending a new verification checklist to the Claimant and apparently based the closure/denial on previous failure to receive a verification of employment sent to the Employer, not the Claimant. The Department produced a Verification of Employment dated July 17, 2013 sent to the employer as the failure to verify. Exhibit 4 and 3.

Apparently pursuant to referral, the OIG was investigating issues of residency and employment with regard to the Claimant relative to an earlier application made by the Claimant for the period prior to the December 6, 2013 application. The OIG also prepared a report dated May 3, 2012 noting that the Claimant's home was possibly vacant, but also testified that the home was well kept and did not look abandoned. At the time of investigation the Claimant credibly testified that he was not living in his home but was living with his mother who is 90 years old and assisting her. As regards employment, the Claimant testified under oath that he did not work for [REDACTED] since 2007. This testimony was corroborated by a January 9, 2014

verification from ██████████ obtained by the Claimant and given to the Department after the December 6, 2013 application was denied. Exhibit 2. The Department's witness OIG agent contended that Claimant did work there based upon a stop by the shop which was made and when it was thought she saw the Claimant there. The testimony regarding this assertion did not overcome the Claimant's testimony that he had worked there for 10 years and last worked an odd job there in January 2013. The OIG regulation agent testified that she went to the alleged employer's auto shop and thought she saw ██████████ working there and at the time did not confirm with the owner, whom she spoke to, whether ██████████ worked there.

The record was unclear why the Department denied/closed the December 6, 2013 application but the notice issued indicates refusal to verify. Based upon the evidence presented and the testimony of the Department, however, it appears that the Department did not verify the December 6, 2013 application and thus could not automatically deny a new application based upon what had occurred before or based upon a May 2013 investigation. The Department's December 13, 2013 Notice of Case Action denies the case back to August, 2013. The Claimant also had a rational explanation as to why he was visiting his mother who is 90 as she needed some assistance. Additionally, the Claimant's testimony regarding his disclosure that he was renting his home while living there was also credible.

The Claimant is advised that he is required and must also advise the Department regarding any income received in any month in the future whether from rental income, or odd jobs and any and all changes that would effect his benefits. Department policy requires that recipients of benefits report the following:

Responsibility to Report Changes

All Programs

This section applies to all groups except most FAP groups with earnings; see BAM 200, Food Assistance Simplified Reporting.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change.

Income reporting requirements are limited to the following:

Earned income:

Starting or stopping employment.

Changing employers.

Change in rate of pay.

Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

Starting or stopping a source of unearned income.

Change in gross monthly income of more than \$50 since the last reported change.

Child support expenses paid.
Health or hospital coverage and premiums.
Child care needs or providers.

Other changes must be reported within 10 days after the client is aware of them. These include, but are not limited to, changes in:

Persons in the home.
Marital status.
Address and shelter cost changes that result from the move.
Vehicles.
Assets.

Changes may be reported in person, by mail or by telephone. The DHS-2240, Change Report Form, may be used by clients to report changes. However, it is not mandatory that changes be reported on the DHS-2240. Changes must be reported timely even if the client does not have a DHS-2240. BAM 105, PP. 9, 10, (1/1/13)

Based on the record as a whole, it is determined that the Department failed to verify information for the December 6, 2013 application and therefore its basis for the denial was incorrect. BAM 130, (7/1/13). The application must be re-registered and processed with current information.

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 the Claimant's December 6, 2013 application for failure to verify information from a prior application.

DECISION AND ORDER

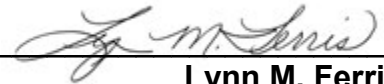
Accordingly, the Department's decision is

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. The Department shall re-register and process the Claimant's December 6, 2013 application and determine Claimant's eligibility to receive food assistance.

2. The Department shall issue a FAP supplement to the Claimant, for FAP benefits, if any, the Claimant was otherwise eligible to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 19, 2014

Date Mailed: February 19, 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

LMF/cl

2014-21604/LMF

cc:

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