

**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.: 2014-22048
Issue No.: 3001
Case No.: ██████████
Hearing Date: February 10, 2014
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

The Claimant in this case is ██████████. During the course of processing Claimant's benefit case, the Department of Human Services (Department) changed the head of household from Claimant to ██████████
██████████

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 AHR. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
██████████

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) case?

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, the AHR's adult daughter, was an ongoing recipient of FAP benefits with a FAP group size of one.
2. Claimant lives with the AHR and the AHR's 20-year-old son.
3. On December 16, 2013, the AHR filed an online application for FAP and State Emergency Relief (SER) benefits.

4. In her application, the AHR included herself, her son, and Claimant as her household members and indicated that they all purchase and prepare food together.
5. On December 17, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting verification of the AHR's shelter, loss of employment, mortgage, unemployment benefits and vehicle ownership and verification of the AHR's and Claimant's checking accounts by December 27, 2013.
6. On January 8, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP case would close effective February 1, 2014, because verification of the AHR's loss of employment and checking account was not provided.
7. The AHR's January 3, 2013, FAP application was approved for a group size of two (the AHR and her son), with benefits beginning February 1, 2014, under Claimant's Department case number, with the AHR listed as the head of household.
8. On January 13, 2014, Claimant filed a request for hearing disputing the Department's actions.

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, Claimant, who is a 26-year-old adult who lives with her mother and 20-year-old brother, was originally the sole member of her FAP group. On December 16, 2013, the AHR applied online for FAP benefits and identified her household members as herself, Claimant, and her son. Parents and their children under 22 years of age who live together must be in the same group. BEM 212 (October 2013), p. 1. Therefore, the AHR and her son were properly included in one group.

Persons who live together and purchase and prepare food together are members of the FAP group. BEM 212 (October 2013), p. 6. The phrase "purchase and prepare together" is meant to describe persons who customarily share food in common. BEM 212, p. 5. Persons customarily share food in common if they (i) each contribute to the purchase of food, (ii) share the preparation of food, regardless of who paid for it, and (iii) eat from the same food supply, regardless of who paid for it. BEM 212, p. 6.

In her December 16, 2013, application, the AHR stated “yes” in response to the questions regarding whether the household members “buy food and eat meals together” and whether they can “buy food or meals separately.” It appears that, based on these responses, the Department concluded that Claimant purchased and prepared food with the AHR and the AHR’s son and, accordingly, all were all members of the same FAP group. However, the AHR’s statements in her online application, which the Department treated as a member add request, were inconsistent with Claimant’s statements in her October 28, 2013, FAP application that she did not purchase and prepare food with her mother and brother. Where there is a discrepancy in a client’s statement and another source, the Department must give the client a reasonable opportunity to resolve this discrepancy. BAM 130 (July 2013), p. 7. By concluding that Claimant was in the same group as the AHR and processing the AHR’s December 16, 2013, FAP application as a member add to Claimant’s case, the Department did not act in accordance with Department policy.

Furthermore, the Department failed to satisfy its burden of showing that Claimant failed to verify requested information. In response to the conclusion that Claimant, the AHR and the AHR’s son were all members of the same FAP group, the Department sent Claimant a December 17, 2013, VCL requesting information from the AHR and Claimant. Although the January 8, 2014, Notice of Case Action states that Claimant’s case was closing because she had failed to verify the AHR’s loss of employment and checking account, no evidence was presented by the Department at the hearing to support this conclusion. Rather, the Department testified that Claimant’s case closed because the AHR failed to provide verification of her son’s checking account. However, the Department did not provide any evidence that it requested such verification in writing from Claimant prior to the case closure. Furthermore, the AHR credibly testified that, while such verification was subsequently requested, no one would assist her when she notified the Department that she could not get the information requested and needed assistance. Because there Department failed to establish that it properly requested information concerning the AHR’s son’s account and did not assist the AHR when assistance was requested, the Department did not act in accordance with Department policy. See BAM 130, p. 3.

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 treated the AHR’s December 16, 2013 FAP application as a member add request to Claimant’s FAP case and subsequently closed Claimant’s FAP case for failure to verify.

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. Reinstate Claimant's FAP case effective February 1, 2014;
2. Reregister and reprocess the AHR's December 16, 2013, FAP application, determining the proper FAP group composition;
3. Issue supplements to Claimant and/or the AHR for any FAP benefits that each is eligible to receive but did not from December 16, 2013 ongoing; and
4. Notify Claimant and the AHR in writing of its FAP decisions.



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

Date Signed: February 13, 2014

Date Mailed: February 13, 2014

NOTICE OF APPEAL: The the AHR 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 the AHR 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

2014-22048/ACE

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

cc:

[REDACTED]
[REDACTED]
[REDACTED]
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