

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22884
Issue No(s): 3002, 5000
Case No.: [REDACTED]
Hearing Date: February 12, 2014
County: Genesee County DHS #02

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 February 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) case based on a failure to comply with verification requirements?

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 was a recipient of FAP benefits.
2. On November 1, 2013, a Verification Checklist was issued to the Claimant with a due date of November 12, 2013 requesting the Claimant contact the Department immediately with a current address or phone number.
3. On November 13, 2013, a Notice of Case Action was issued to the Claimant stating the FAP case would close effective December 1, 2013 because verification of unable to locate household was not returned.

4. On January 14, 2013, the Claimant filed a request for hearing contesting the Department's action¹.

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 and the client has not made a reasonable effort to provide it. 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.

¹ On the January 14, 2013 request for hearing, the Claimant also stated she was denied twice for State Emergency Relief (SER), and noted how long it took for the check to be printed for the approved third SER application. However, the Claimant confirmed there is no longer any contested issue with SER. Accordingly, the SER portion of the Claimant's request for hearing is dismissed.

The Eligibility Specialist testified that during the months of June 2013 and November 2013, mail sent to the Claimant was returned as undeliverable.

On November 1, 2013, a Verification Checklist was issued to the Claimant with a due date of November 12, 2013 requesting that the Claimant contact the Department immediately with a current address or phone number. The Claimant credibly testified that she never received the Verification Checklist. The Claimant noted that she did not move to the address the November 1, 2013 Verification Checklist was sent to until November 8, 2013. Further, the apartment number was not included in the address. The Claimant explained that at the time the Department approved her State Emergency Relief (SER) application for the deposit and first month's rent, the address was known but not the apartment number. Accordingly, it appears that the Department changed the Claimant's address in their computer system when the SER approval was processed, but before the Claimant actually moved in to the new apartment. Further, the Claimant noted her phone number never changed and the Department never attempted to call her.

The Department's determination to close the Claimant's FAP case based on a failure to comply with verification requirements cannot be upheld. The Verification Checklist requested the Claimant contact the Department immediately with a current address or phone number. However, the Department was aware of the Claimant's move at the time the November 1, 2013 Verification Checklist was issued. Specifically, the Department approved the Claimant's SER application for the deposit and first month's rent. Further, despite the apartment number being unknown at the time of the SER approval, the Department updated the Claimant's address in their computer system. This was also before the Claimant actually moved into the apartment. Accordingly, the November 1, 2013 Verification Checklist was sent to an address the Claimant did not yet live at and was missing the apartment number. This supports the Claimant's credible testimony that she never received the Verification Checklist.

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 closed the Claimant's FAP case based on a failure to comply with verification requirements.

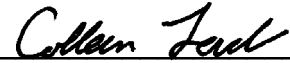
DECISION AND ORDER

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. Re-instate the Claimant's FAP case retroactive to the December 1, 2013 effective date, and re-determine eligibility in accordance with Department policy.

2. Issue the Claimant any supplement she may thereafter be due.



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

Date Signed: February 18, 2014

Date Mailed: February 18, 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

201422884/CL

CL/hj

cc:

