

**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.: 2014-3443 and 2014-6522
Issue No(s): 1001, 3001
Case No.: ██████████
Hearing Date: February 5, 2014
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, an in-person hearing was held on February 5, 2014, from Pontiac, Michigan. Participants on behalf of Claimant included Claimant ██████████
████████████████████ Participants on behalf of
the Department of Human Services (Department) included ██████████
██████████

There were two hearing requests filed regarding the same issue of the Claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) cases being closed based upon a failure to verify or locate. Two registration numbers as listed above were created for the hearing requests. This Hearing Decision will combine both registration numbers and hearing requests.

ISSUE

Did the Department properly terminate Claimant's FAP and FIP program 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 July 31, 2013, the Department referred Claimant's case to an FEE agent based upon an alleged address discrepancy.
2. On August 22, 2013, the FEE agent finalized the report indicating they were unable to locate Claimant.

3. On September 17, 2013, the Department issued a notice of case action indicating Claimant's FIP case would be closed based upon a failure to locate.
4. On September 25, 2013, the Department issued a second notice of case action indicating Claimant's FAP case would be closing based upon a failure to locate.
5. On September 30, 2013, Claimant filed a hearing request to protest the closure of her FIP case.
6. On October 10, 2013, Claimant filed a second hearing request to protest the closure of her FAP benefits.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

In the instant case, Claimant's benefits were terminated based upon the Department not being able to locate Claimant. Claimant had been receiving benefits under both the FIP and FAP programs. The Department referred Claimant's case for investigation after perceived inconsistencies were found in Claimant's paperwork. The Department completed an investigation which resulted in a finding of unable to locate.

At hearing, the Department testified that Claimant had reported living in her car and that she was homeless. The Department further testified that Claimant had informed the Department that the children attend school in one school district and then reported the children were homeschooled. The Department testified it had received returned mail and, previous to case closure, had sent a verification checklist to Claimant requesting verification of residence. The Department provided no documentation at hearing to demonstrate any mail had been returned or that a verification checklist had been issued regarding residence prior to case closure.

Claimant testified she had told the Department she was living in a hotel and she did provide them with a PO Box to mail information to her. Claimant testified her child was attacked by her husband in April 2013. She had been placed in a hotel for a week with the assistance of a community resource. She then moved to her parent's house. At all times, Claimant had maintained the PO Box she had provided on her application for benefits. Claimant testified she never received a verification request prior to the notice of case action indicating case closure.

According to BAM 130, p. 1 (July 2013), the Department is required to seek verification at application/redetermination and for a reported change affecting eligibility or benefit level. The Department also seeks verification when an eligibility factor is unclear, inconsistent, incomplete or contradictory.

In the instant case, Claimant had reported being homeless and had subsequently reported a change in schooling. The Department alleged returned mail but failed to present evidence of this returned mail at hearing. The Department alleged a verification request was made prior to case closure, yet failed to present evidence demonstrating a request was made. The only evidence presented was an investigative report that showed Claimant had no additional income or assets pertinent to eligibility. The report indicates Claimant reported being homeless and the investigation revealed the phone number provided was disconnected and that Claimant should be marked as unable to locate. This report appears to be generated based upon a database review. There was no indication the investigator made any attempts to visit any addresses. Further, the Department presented an email indicating child protective services had not located Claimant. Subsequent to the case actions in question, the Department did mail a verification request to Claimant on October 14, 2013.

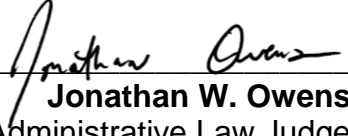
After reviewing the evidence submitted, this Administrative Law Judge finds the testimony provided by Claimant to be more credible. Claimant had provided a PO Box address for the Department to contact her. The Department failed to demonstrate any attempts were made to utilize this PO Box address to verify Claimant's whereabouts. Further, this Administrative Law Judge finds Claimant credibly testified that she had informed the Department of her whereabouts and the Department was aware of her living in a hotel and/or at her parents. Therefore, Claimant's benefits should not have been terminated.

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 FIP and FAP benefits back to the date benefits were terminated;
2. Supplement Claimant for any loss in benefits she is otherwise eligible to receive.


Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 12, 2014

Date Mailed: February 12, 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

JWO/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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