

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201420782
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 4, 2014
County: SSPC-WEST DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly deny the Claimant's Food Assistance Program (FAP) application?

FINDINGS OF FACT

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

1. On November 25, 2013, the Claimant applied for Food Assistance Program (FAP) benefits.
2. On November 26, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) and Verification of Employment (DHS-38) with due dates of December 6, 2013.
3. On December 10, 2013, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits as of January 1, 2014.
4. The Department received the Claimant's request for a hearing on January 3, 2014, protesting the closure of her Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

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. This includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

The Department will sent a negative action 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. BEM 130.

Before determining eligibility, the Department will give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BEM 130.

For stopping income, the Department will budget the final income expected to be received in the benefit month. The Department will use the best available information to determine the amount of the last check expected. The Department will use information from the source and from the client. The Department will remove stopped income from the budget for future months. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2013), p 7.

On November 25, 2013, the Claimant applied for Food Assistance Program (FAP) benefits. The Claimant reported ending employment to the Department. On November 26, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) and a Verification of Employment (DHS-38) with due dates of December 6, 2013. The Department is required to verify the nature of her ending employment and her ending employment.

The Claimant supplied the Verification of Employment (DHS-38) to her former employer and this form was returned to the Department in a timely manner. The Department determined that insufficient information was provided with the Verification of Employment (DHS-38). The Department sent the Claimant notice on December 10, 2013, that it would close the Claimant's Food Assistance Program (FAP) benefits as of January 1, 2014, for failure to provide the Department with information necessary to determine her eligibility to receive benefits.

The Claimant testified that she was willing to provide the Department with the information that was requested and if she had known that her employer had not fully complied with the request for information on the Verification of Employment (DHS-38), then she would have corrected the deficiency.

No evidence was presented during the hearing to suggest that the Claimant refused suitable employment, or that she was fired for misconduct.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Claimant made a reasonable effort to provide the Department with the information necessary to determine her continued benefits. The Department failed to seek clarification from the Claimant if the information she reported, and the information supplied by her former employer was insufficient or created a discrepancy.

Therefore, the Department failed to establish that it was acting in accordance with policy when it closed the Claimant's Food Assistance Program (FAP) benefits.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's Food Assistance Program (FAP) benefits.

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. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of January 1, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-16 05) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

Kevin


Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 7, 2014

Date Mailed: February 7, 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

KS/hj

cc:

