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

IN THE MATTER OF:



Reg. No.: Issue No(s).: Case No.: Hearing Date: County: 2014-24980 3002

February 27, 2014 SSPC-West-98

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 CF R 431.200 to 431.250; 45 CFR 99. 1 to 99.33; and 45 CFR 205.10. After due notice, a three-way telephone hearing was held on F ebruary 27, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, Participants on behalf of the Department of Human Servic es (Department) included Eligiblity Specialist

ISSUE

Did the Department properly close Claimant's Food A ssistance Progr am (FAP) benefits?

FINDINGS OF FACT

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

- 1. Claimant applied for FAP on October 8, 2013.
- On October 8, 2013, the Depart ment sent Claimant a Verification Checklist (VCL) (Exhibit 1 Pages 5-6). He was required to provide ve rification of a number of details by October 18, 2013. The documentation he had to provide was:
 - a. Savings Account/Christmas Club Account Current bank statement or DHS 20 – Verification of Assets
 - Wages, Salaries, Tips , and Commisions Last 30 days of check stubs or earnings st atements; employer statement; DHS-3 8, Verification of Employment; DHS -3569, Agricultural Incom e Verification
 - c. Home/Building M ortgage or deed; current tax records; bank; county records; court record; attorney

- d. Loss of Employment Employ ment records; employ er statement; DHS 38 – Verification of Employment
- e. Mortgage Current mortgage co mpany or lender statement; condo/association statement; DHS-3688, Shelter Verification Form
- f. Vehicle ownership loan st atement or payment book; SOS clearance; title, registration, or proof of insurance
- g. Checking account c urrent bank statement; DHS 20 Verification of Assets
- 3. In an October 31, 2013 Notice of Case Action, the Department informed Claimant that his FAP was denied effective Oct ober 8, 2013 because he had not provided "verification of loss of employment".
- 4. On January 27, 2014, the Claim ant requested a hearing (Exhibit 1 Page 3) on his benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Service s Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), D epartment of Human Servic es 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] i s established by the Food Stamp Act of 197 7, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations c ontained in 7 CFR 271. 1 to 285.5. The Department (formerly known as the Fam ily 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 completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clie nts must complete ly and truthfully ans wer all qu estions on forms and in interviews." BAM 105.

The Department ended Claimant 's benefits because he had not verified his loss of employment.

Per BEM 103, the Department is to:

"Send a negative action notice when:

"The client indicates refusal to provide a verification, or

"The time period given has el apsed and the client has **not** made a reasonable effort to provide it."

BAM 130 instructs, with respect to the FIP, SDA, MA and AMP programs,

"A collateral contact is a direct c ontact with a person, organization or agency to verify information from the client. It might be necess ary when documentation is not available or when available evidence needs clarification.

"The client must name su itable collateral c ontacts when request ed. You may assist the client to designat e them. You are responsible for obtaining the verification."

BAM 130 does NOT place resp onsibility on the Department to make colla teral contact for FAP applicants or recipients. For all programs, when it comes to verification, BAM 130 says:

"The client must obtain required verification, but you must assist if they need and request help.

"If neither the client nor you can obt ain verification despite a reasonable effort, use the best av ailable information. If no ev idence is available, us e your best judgment."

The Claimant testified that he had called his case worker for clarification of what s he meant by verifying his "loss of employment". He submitted the verifications that he understood she was requiring. After he received the NCA he called again for an explanation and left a message for her but she did not return his call. Sinc e the only verification mentioned in t he NCA as missing was the loss of employment, presumably the Claimant provided all of the other verification. Al so, Claimant had left one job through a placement service and started anot her job through a placement service in another county. He provided verificati on of his newer employment, which was presumably accepted by the Department.

The iss ue is whether the Claim ant provided timely verifica tion in response to the request, or at least made a reas onable effort to do so. The evidence is pers uasive that the Verific ation Chec klist was mailed to t he Claimant at his address of record. The evidence also establis hes that the Departm ent believed Claimant did not fully respond to the loss of employment issue by the deadl ine. However, he was convincing in his explanation for his response. He called his case worker for an explanation of what she wanted. After his application was denied, he called again for an explanation but his call was not r eturned. And, after he filed his hearing request he reapplied and his application was approved. The testimony is convincing that Claimant made a reasonable effort to provide verification of his loss of employment.

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 acted in

accordance with Department policy when it closed Claimant's CDC benefits. It did not act in accordance with Department policy when it closed Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEP ARTMENT IS ORDERE D TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WIT H DE PARTMENT P OLICY AND CONS ISTENT WITH THIS HEARING DECISION, WITHIN 10 DAY S OF THE DA TE OF MAILING OF THIS DECISION AND ORDER:

- 1. Redetermine Claimant's FAP benefit eligibility, effective October 8, 2013;
- 2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl T. Johnson Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: February 28, 2014

Date Mailed: February 28, 2014

NOTICE OF APP EAL: The claimant may appea I the Dec ision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsiderati on was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing S ystem (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 or iginal 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 clai mant must specify all reas ons 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

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