

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25069
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: February 26, 2014
County: Genesee County DHS #06

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 26, 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 deny Claimant's Food Assistance Program (FAP) application 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. On December 17, 2013, Claimant applied for FAP for a group size of seven.
2. On December 26, 2013, a Verification Checklist was issued to Claimant stating what verifications were needed by the January 6, 2014 due date.
3. On December 27, 2013, Claimant submitted some of the requested verifications.
4. On January 8, 2014, a Notice of Case Action was issued to Claimant stating the FAP case was denied based upon a failure to provide verifications.
5. On January 15, 2014, Claimant filed a request for hearing contesting the Department's determination.

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. The Department must re-register the FAP application if the client complies within 60 days of the application date. BAM 115 and BAM 130.

Regarding earned income, the Department counts the gross amount of wages (except as specified in policy regarding the earned income tax credit, flexible benefits, strikers' countable earnings, student earnings disregarded, and census workers). BEM 501. Regarding assets, the Department counts funds in a savings account as a cash asset. BEM 400.

On December 26, 2013, a Verification Checklist was issued to Claimant stating what verifications were needed by the January 6, 2014 due date. The requested verifications included proofs for: Claimant's checking and savings accounts, self-employment, wages, loss of employment, mortgage, and vehicle ownership; and Claimant's daughter's wages and checking account. The Verification checklist also stated additional information should be provided regarding missing check stubs. (Exhibit A, pages 27-28) On December 27, 2013, Claimant submitted some of the requested verifications. (Exhibit A, pages 39-65) The Department denied the FAP application because not all of the requested verifications were provided. Specifically, the denial notice states the verifications not provided were: Claimant's savings account, loss of employment and self-employment payments; and Claimant's daughter's earned income and missing check stubs. (Exhibit A, page 68)

Claimant testified he provided all that was available regarding his self-employment wages from working as a pastor. Regarding wage verification, the Verification Checklist specified acceptable proofs were the last 30 days of check stubs or earnings statements, employer statement, DHS-38 Verification of employment form, or DHS-3569 Agricultural Income Verification form. Claimant explained that for his work as a pastor, he only receives a check. Claimant stated there is no earnings statement or paycheck stub, and nothing is withheld from the checks, such as taxes. Accordingly, Claimant submitted what he could, the copies of the actual checks for this employment. (Exhibit A, pages 41-42) Pursuant to BAM 130, when a requested verification, such as paycheck stubs, is requested but is not available, the Department worker should use the best available information. A denial notice is only appropriate 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. Claimant did not refuse to provide requested verification of his income from working as a pastor, rather Claimant made a reasonable effort and provided the best available information for proof of this income. The denial of the FAP application should not have been based on a failure to provide verification of Claimant's income as a pastor.

It was uncontested that Claimant only provided copies of the checks, and not the paycheck stubs, for proof of his daughter's employment income. Regarding wage verification, the Verification Checklist specified acceptable proofs were the last 30 days of check stubs or earnings statements, employer statement, DHS-38 Verification of employment form, or DHS-3569 Agricultural Income Verification form. Claimant acknowledged he was not successful in getting the actual paycheck stubs back to the Department. Claimant testified he tried to provide W2's to the Department at the pre-hearing conference but that did not satisfy them. Claimant noted the difference between the actual paychecks and the paycheck stubs showing the gross earnings was only about \$ [REDACTED] in withheld taxes. Unlike Claimant's income as a pastor discussed above where no actual paycheck stubs were available, the evidence indicates that paycheck stubs were available for his daughter's income. The denial of the FAP application was in accordance with Department policy based on Claimant's failure to provide requested acceptable verification, which was available, for his daughter's wages by the due date listed on the Verification Checklist.

Claimant also failed to provide any documentation in response to the request for verification of his savings account. Claimant testified that at time of the FAP application, he only had \$ [REDACTED] in the savings account. Claimant explained he is behind on the mortgage and by the time the Department requested the verifications, the bank had already closed the savings account. Therefore, Claimant asserted there was no longer a savings account to provide verification of. While the savings account may have closed, it was open at the time the FAP application was filed. Accordingly, verification of the value of this potential asset was needed to determine FAP eligibility back to the application date. Claimant should have provided some documentation in response to the request for verification of the savings account, such as the last available bank statement with an explanation or proof of when the bank closed the account. The denial of the FAP application was in accordance with Department policy based on Claimant's failure to provide any documentation in response to the request for verification of his savings account.

The Department provided sufficient evidence that they followed the BAM 130 policy in requesting verifications needed to determine FAP eligibility, including verification of Claimant's savings account and Claimant's daughter's earned income. The Department allowed 10 days, told Claimant what verifications were required, how to obtain them, and the due date. There was no evidence Claimant requested the Department assist with obtaining the requested verifications. The submitted copies of the actual paychecks for Claimant's daughter did not provide sufficient information to verify her gross income. The evidence indicates paycheck stubs were available for Claimant's daughter's income, but were not submitted. Regarding Claimant's savings account, it was uncontested that the account existed at the time of the FAP application. Claimant did not provide any documentation in response to the request for verification of his savings account. Accordingly, the denial of Claimant's FAP application based on the failure to provide any verification of his savings account and failure to provide acceptable, available verification of his daughter's wages must be upheld.

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 denied Claimant's FAP application based on a failure to comply with verification requirements.

DECISION AND ORDER

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



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

Date Signed: March 4, 2014
Date Mailed: March 4, 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

CL/hj

cc:

