

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-27514
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: March 13, 2014
County: Macomb - 12

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 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 March 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) 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. Claimant was an on-going FAP recipient.
2. On January 10, 2014, the Claimant participated in a Redetermination and, during an interview, produced verification of assets, including two accounts with [REDACTED]
3. Based upon information from a prior application, the Department asked him to verify a third [REDACTED] Account (number ending in [REDACTED])
4. Claimant had closed the [REDACTED] Account [REDACTED] no later than January 2012, and previously provided his former worker with information that the former worker presumably found satisfactory to establish that the account was closed.
5. On January 22, 2014, the Department mailed Claimant a Verification Checklist (VCL) requiring him to provide proof of, among other items, the amount in his [REDACTED] Account [REDACTED]. His proofs were due by February 3, 2014.

6. On February 3, 2014, the Department received Claimant's response, with the requested verification, excepting verification of the [REDACTED] Account [REDACTED]. Claimant also included a written statement that "The list of accounts and proofs I am sending you with this letter is complete. These are all the accounts I have. There are no other accounts." Also included with his materials was a spreadsheet listing several assets, including two [REDACTED] Accounts, the account numbers, and the balances/values of the assets.
7. Claimant also reminded the Department that the VCL was sent to his physical address, even though he had asked the Department to use his PO Box as his address.
8. On February 4, 2014, the Department mailed Claimant a Notice of Case Action (NCA) informing him that his FAP was "closed due to you failed to return proof of your [REDACTED] (sic) bank account for your shares." Benefits were closed effective February 1, 2014.
9. On February 14, 2014, Claimant provided the Department with a copy of an [REDACTED] Account [REDACTED] statement dated February 07, 2012, showing the account had a balance of \$0.00 as early as January 28, 2012.
10. On February 18, 2014, the Claimant requested a hearing.

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.

"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. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105.

The Department ended Claimant's benefits because he had not verified a balance in an account that had been closed for two years.

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 elapsed 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 contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification.

“The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtaining the verification.”

BAM 130 does NOT place responsibility on the Department to make collateral 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 obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The Claimant testified that he had told his previous worker that the [REDACTED] account had been closed, and that she had accepted his statement. The Department's witness testified that the previous worker had not noted in Bridges that the account had been closed, and that Claimant therefore had to provide proof that it was closed. When he submitted his response to the VCL, he affirmed that he was listing all of his accounts. He also wrote, “I hope all of the information I have provided to you will meet your needs, and answer all of your questions. If not, please feel free to call me at xxx-xxx-xxxx, or write me at the address provided above.”

The issue is whether the Claimant provided timely verification in response to the request, or at least made a reasonable effort to provide verification. The evidence is persuasive that the Verification Checklist was mailed to the Claimant at his physical address despite his previous requests that the Department use his PO Box for mailings.. The evidence also establishes that the Claimant did not provide a copy of the [REDACTED] statement by the deadline.. However, he was convincing in his explanation for why he did not provide it. His previous case worker had been satisfied with his explanation. The account had been closed for more than two years. He

explained it to his current worker, and specifically asked her to contact him if his submission was unsatisfactory. Instead of contacting him and explaining that more verification was needed, his benefits were closed. He provided a substantial number of documents, and a spreadsheet, detailing his assets. The only missing piece was verification of what was, in reality, a non-existent asset. I find that the Claimant made a reasonable effort to obtain the verification that was requested.

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 Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision **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. Redetermine Claimant's FAP benefit eligibility, effective February 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.
3. If not already done, administratively note that the American Express account ending in 7296 has been closed so that Claimant is not required to verify that particular account in the future.



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

Date Signed: March 14, 2014

Date Mailed: March 17, 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

DTJ/las

cc:

