

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

IN THE MATTER OF:



Reg. No.: 2014-25445
Issue No(s): 3003
Case No.: [REDACTED]
Hearing Date: March 3, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective February 1, 2014, ongoing?

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 ongoing recipient of FAP benefits.
2. On December 16, 2013, the Department sent Claimant a redetermination, which was due back by January 2, 2014. See Exhibit 1.
3. On December 27, 2013, Claimant submitted the redetermination, which he also indicated self-employment in the income source section. See Exhibit 1.
4. On January 13, 2014, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's other self-employment and it was due back by January 23, 2014. See Exhibit 1.

5. Claimant failed to submit the requested verification before the end of benefit period (January 31, 2014).
6. Effective February 1, 2014, Claimant's FAP benefits closed due to his failure to provide the requested verifications.
7. On February 3, 2014, Claimant filed a hearing request, protesting the FAP case closure. See Exhibit 1.
8. On February 3, 2014, Claimant also submitted verification of his self-employment with the hearing request. See Exhibit 1.

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. BAM 105 (January 2014), p. 7. This includes completion of necessary forms. BAM 105, p. 7.

A complete redetermination is required at least every 12 months. BAM 210 (October 2013), p. 1.

For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. An interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p. 3.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the EDG. BAM 210, p. 10. A Notice of Case Action (DHS-1605) is not generated. BAM 210, p. 10. BAM 210 further states how the Department completes the redetermination process. BAM 210, pp. 15-16.

Also, for FAP only, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14. The DHS-3503, Verification Checklist should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 14.

In this case, Claimant was an ongoing recipient of FAP benefits. On December 16, 2013, the Department sent Claimant a redetermination, which was due back by January 2, 2014. See Exhibit 1. On December 27, 2013, Claimant submitted the redetermination, which he also indicated self-employment in the income source section. See Exhibit 1. On January 13, 2014, the Department testified that it spoke to the Claimant regarding the self-employment that he indicated. The Department testified that Claimant refused to provide verification of his self-employment. On January 13, 2014, the Department sent Claimant a VCL, which requested verification of Claimant's other self-employment and it was due back by January 23, 2014. See Exhibit 1. The Department testified that Claimant failed to submit the requested verification before the end of benefit period (January 31, 2014). Effective February 1, 2014, Claimant's FAP benefits closed due to his failure to provide the requested verifications.

At the hearing, Claimant testified that he submitted the self-employment verification at the local DHS office and signed the logbook on January 9, 2014. During the hearing, the Department retrieved the logbook and both parties reviewed it. No submission of Claimant's verification was discovered for the following dates, January 3, 2014, and January 7 to 10, 2014.

Based on the foregoing information and evidence, the Department properly closed Claimant's FAP benefits effective February 1, 2014, ongoing, in accordance with Department policy. The Department presented credible evidence that Claimant failed to submit the requested verification before the end of the benefit period (January 31, 2014). Claimant testified that he submitted the verification on January 9, 2014; however, a review of the logbook discovered no such submission. Ultimately, Claimant must complete the necessary forms to determine his ongoing FAP eligibility. See BAM 105, p. 7. Because the Claimant failed to submit the verifications before the end of the benefit period (January 31, 2014), the Department properly closed the FAP benefits in accordance with Department policy. BAM 105, p. 7 and BAM 210, pp. 1-16.

However, on February 3, 2014, Claimant filed a hearing request, protesting the FAP case closure. See Exhibit 1. Along with Claimant's hearing request, he also submitted verification of his self-employment. See Exhibit 1. The Department testified that this documentation sufficed the self-employment verification.

For FAP only, if a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, pp. 17-18. Proceed as follows if the client takes the required action within 30 days after the end of the benefit period:

- Re-register the redetermination application using the date the client completed the process.
- If the client is eligible, prorate benefits from the date the redetermination application was registered.

BAM 210, p. 18.

Based on the foregoing information and evidence, it is found that the Department failed to re-register the redetermination application as Claimant completed the required action within 30 days after the end of the benefit period. See BAM 210, pp. 17-18. On December 27, 2013, Claimant returned the redetermination for a certification period ending January 31, 2014. See Exhibit 1. On January 31, 2014, the redetermination is denied for failure to return verifications. On February 3, 2014, Claimant returns the required verifications. See Exhibit 1. Thus, the Department will re-register the original redetermination application with the February 3, 2014 date and issue prorated benefits from February 3, 2014. See BAM 210, pp. 17-18.

It should be noted that the Department did not present as evidence the Notice of Case Action that was generated for the FAP case closure effective February 1, 2014, due to the failure to provide the verifications.

For FAP cases, the Department sends 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 (January 2014), p. 7.

However, this is harmless error by the Department. As stated above, it was determined that Claimant failed to submit the requested verifications before the end of the benefit period, thus the Department properly closed the FAP benefits effective February 1, 2014. Moreover, the Department's hearing summary indicated that on January 29, 2014, Claimant's eligibility was ran and the FAP benefits were closed for failure to provide the verification. See Exhibit 1. Thus, it appears that the FAP case closure was certified on January 29, 2014 for an effective closure date of February 1, 2014. See Eligibility Summary, Exhibit 1. Also, Claimant's hearing request disputing the FAP case closure references a notice date (certification date) of January 29, 2014. See Exhibit 1. Thus, it appears that a Notice of Case Action was generated for the FAP closure. Nevertheless, this is harmless error by the Department as it is determined that Claimant failed to submit the requested verifications before the end of the benefit period.


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 (i) acted in accordance with Department policy when it properly closed Claimant's FAP benefits effective February 1, 2014; and (ii) did not act in accordance with Department policy when it failed to re-register the original redetermination application with the February 3, 2014 date.

Accordingly, the Department's FAP decision is AFFIRMED IN PART with respect to case closure effective February 1, 2014 and REVERSED IN PART with respect to failure to reregister the original redetermination application with the February 3, 2014 date.

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. Reregister the redetermination application with the February 3, 2014 date;
2. Begin reprocessing the redetermination application/recalculating the FAP budget for February 3, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from February 3, 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 6, 2014

Date Mailed: March 6, 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

EJF/tlf

cc:

