

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-28111
Issue No(s): 2000, 3002
Case No.: ██████████
Hearing Date: March 19, 2014
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his son/interpreter, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case when he failed to verify his immigration status?

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 FAP recipient since 1994.
2. On February 5, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP case would close effective March 1, 2014 for failure to provide proof of immigration status.
3. On February 13, 2014, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

As a preliminary matter, Claimant requested a hearing regarding his MA. The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Shortly after commencement of the hearing, Claimant testified that he understands and is satisfied with the actions taken by the Department with respect to his MA benefits and stated that he no longer had any issues to address with respect to his MA benefits. Claimant further confirmed that he did not wish to proceed with the hearing concerning his MA benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding MA is hereby **DISMISSED**.

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.

The Department must determine the alien status of each non-citizen requesting benefits at application, member addition, redetermination, and when a change is reported. BEM 225 (January 2014), p 1. To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status, and individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225, p 1. The alien status of each non-citizen requesting benefits **MUST** be verified. BEM 225, p 2.

In this case, Claimant credibly testified that he was a [REDACTED]-born individual who entered the U.S. in [REDACTED]. Claimant testified that he has been receiving FAP benefits since 1994 and that he provided the Department with a copy of his birth certificate showing that he was born in [REDACTED] as well as an application for asylum.

The Department is required to allow clients ten calendar days to provide the requested verification. BAM 130 (January 1, 2014), p. 5. In this case, the Department was unable to confirm that a Verification Checklist (VCL) had been sent to the Claimant requesting that he provide proof of his immigration status. The Claimant testified that he did not receive any request for proof of his immigration status and that he first became aware

that documents were required when he received the Notice of Case Action alerting him that his FAP case would close effective March 1, 2014.

Because the Department was unable to determine whether it sent Claimant a VCL requesting proof of his immigration status prior to closing of his case, 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 case.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to MA is **DISMISSED** and the Department's FAP 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. Reinstate Claimant's FAP benefits as of March 1, 2014, if otherwise eligible.
2. Issue supplements to Claimant for FAP benefits he was eligible to receive but did not from Mach 1, 2014, ongoing.



JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 27, 2014

Date Mailed: March 27, 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

JAM/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]