

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

IN THE MATTER OF:



Reg. No.: 201428780
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: March 17, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Claimant's application for 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. On December 30, 2013, Claimant submitted a filing form requesting FAP assistance.
2. On January 2, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting that she complete and submit by January 13, 2014 the following documents: an application; self-employment forms for the last three months (October 2013, November 2013 and December 2013); proof of end of worker's compensation; verification of assets; and proof of shelter expenses.
3. On January 7, 2014, Claimant filed an assistance application seeking FAP and child care assistance.

4. Claimant had a phone interview on January 9, 2014.
5. On January 9, 2014, the Department sent Claimant another VCL requesting that she complete and submit by January 21, 2014 the following documents: proof of self-employment; worker's compensation; and home rent.
6. On January 15, 2014, Claimant submitted another application for FAP and child care assistance.
7. On January 27, 2014, the Department sent Claimant a Notice of Case Action denying her December 30, 2013 FAP application.
8. On February 12, 2014, Claimant filed a request for hearing disputing the Department's actions concerning her FAP application.

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, Claimant completed a filing form for FAP benefits on December 30, 2013, and applications for FAP benefits on January 7, 2014 and January 15, 2014. The filing form preserved December 30, 2013 as the filing date for Claimant's application. BAM 110 (January 2014), pp. 1, 2.

The Department denied Claimant FAP benefits in a January 27, 2014 Notice of Case Action. Although there was evidence presented at the hearing concerning Claimant's failure to participate in an in-person interview, the Notice of Case Action denied Claimant's December 30, 2013 FAP application because she had failed to verify her rent, self-employment, and unearned income and because she had excess income. The Department did not present any evidence concerning excess income at the hearing and acknowledged that the only basis for denial of the application was the failure to verify.

The Department established that it sent Claimant two VCLs, one on January 2, 2014, requesting a completed application, self-employment forms for the last three months (October 2013, November 2013 and December 2013), proof of end of worker's compensation, verification of assets, and proof of shelter expenses, and another on

January 9, 2014 requesting self-employment and loss of worker's compensation benefits as well as verification of rent. Claimant's application was denied because she failed to verify her self-employment income, the end of her worker's compensations benefits, and her shelter expenses.

Claimant credibly testified that she left several messages with her Department worker prior to the VCL due date requesting assistance with completing the self-employment documents and obtaining the worker's compensation verification. She explained that she had identified self-employment income from housekeeping on her application but that she had not had any income for the months requested (October 2013 to December 2013) other than inconsequential amount and did not understand how to complete the self-employment forms in light of her situation. She also testified that she was unable to get the worker's compensation agency to provide any documentation to show that she was no longer receiving worker's compensation benefits. Claimant testified that she contacted her worker for assistance in completing the self-employment forms and in obtaining required verification from the worker's compensation agency. The telephone records from Claimant's worker show that there were repeated phone calls between Claimant and the worker. The worker at the hearing was not Claimant's worker and was unable to testify concerning the nature of the conversations between Claimant and her worker and to dispute Claimant's testimony.

While the client is required to obtain verifications, the Department must assist if help is requested. BAM 130 (January 2014), p. 3. Furthermore, the Department may not deny assistance based solely on an agency refusing to verify income. BEM 500 (January 2014), p. 15. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department must use the best available information or, if no evidence is available, its best judgment. BAM 130, p. 3. Under the circumstances in this case, where Claimant requested assistance from her Department worker in completing the self-employment documentation and advised her worker that she was unable to obtain any written documentation concerning the end of her worker's compensation benefits, the Department did not act in accordance with Department policy when it failed to assist Claimant and denied her FAP application for failure to verify.

It is noted that the Department also requested verification of Claimant's shelter expenses. Claimant testified that she submitted verification of such expenses. However, a review of the January 7, 2014 and January 15, 2014 FAP applications shows that Claimant identified two different shelter expenses. Therefore, even if Claimant submitted one shelter verification, in light of her inconsistency, the Department acted in accordance with Department policy when it requested an additional verification. See BAM 110 (January 2014), p. 8 (requiring the Department to review an additional application received prior to certification of the initial application for information which could affect eligibility and benefit level). Nevertheless, when a client fails to verify shelter expenses, the Department must remove the shelter expense from the calculation of the client's FAP eligibility, not deny benefits for failure to verify. See BEM 554 (July 2013), p. 14.

DECISION AND ORDER

Based on the foregoing, 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. Reregister and reprocess Claimant's December 30, 2013, FAP application, requesting any required verifications;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from December 30, 2013, ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2014

Date Mailed: March 20, 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.

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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

ACE/tlf

cc:

