

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-28981
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: March 19, 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 19, 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], Assistant Payment Worker, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective April 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 an unspecified date, Claimant reported new employment to the Department.
3. On January 27, 2014, the Department sent Claimant a Verification of Employment and Verification Checklist (VCL) requesting proof of employment and it was due back by February 6, 2014. See Exhibit 1.
4. Claimant failed to submit the employment verification by the due date.

5. On February 18, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective April 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
6. On February 26, 2014, Claimant filed a hearing request, protesting the FAP case closure and also provided verification of her employment. See Exhibits 1 and A.

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.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (January 2014), p. 5. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. 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, p. 6.

In the present case, Claimant was an ongoing recipient of FAP benefits. On an unspecified date, Claimant reported new employment to the Department. On January 27, 2014, the Department sent Claimant a Verification of Employment and VCL requesting proof of employment and it was due back by February 6, 2014. See Exhibit 1. The Department testified that it never received the requested verification. Thus, on February 18, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective April 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

At the hearing, Claimant did not dispute that she received the VCL documentation. Claimant testified that her employer was on vacation and upon the employer's return, she completed the verification requirements. Claimant testified that her employer instructed her to complete the verification forms online. Thus, Claimant testified that she obtained the verifications online and faxed the requested documentation from her

friend's house to the Department. Claimant testified she faxed the employment verification with her request for hearing on February 26, 2014. A review of the documentation including the front on her request for hearing, a work number letter dated February 24, 2014, and a history of her pay periods. See Exhibit A. The Department testified that it received the request for hearing but no employment verification submitted on February 26, 2014.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (January 2014), p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 11. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 11. It is always the day before the negative action is effective. BAM 220, p. 11. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. BAM 220, p. 11. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, pp. 11-12.

If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the negative action. BAM 220, p. 12. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, pp. 12-13. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 13.

In the present case, Claimant's Request for a Hearing (Exhibit 1) stated that Claimant can submit a timely hearing request on or before March 3, 2014. BAM 220, p. 11. Thus, March 4, 2014, is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Claimant provided credible evidence that she submitted the employment verification with her hearing request on February 26, 2014. A review of the documentation including the front on her request for hearing, a work number letter dated February 24, 2014, and a history of her pay periods. See Exhibit A. The documentation only indicated a fax sent on her request for hearing. See Exhibits 1 and A. However, Claimant's work number letter is dated February 24, 2014, which is only two days before the request for hearing. See Exhibit A.

Based on above information, there is sufficient evidence presented that Claimant submitted the employment verifications with her hearing request on February 26, 2014. The evidence shows that the Claimant submitted the employment verifications with her request for hearing before the negative action date.

Based on the foregoing information and evidence, Claimant met the verification requirement before the March 4, 2014 negative action effect date. BAM 220, p. 12. Because the Claimant submitted the VCL requirements before the March 4, 2014 negative action date, the Department improperly closed Claimant's FAP benefits effective April 1, 2014, ongoing. The Department should have deleted the negative action and run her FAP eligibility. See BAM 220, pp. 12-13.


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 did not act in accordance with Department policy when it improperly closed Claimant's FAP benefits effective April 1, 2014, ongoing.

Accordingly, 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 case as of April 1, 2014, ongoing;
2. Begin recalculating the FAP budget for April 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from April 1, 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 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.

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:

