

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

IN THE MATTER OF:



Reg. No.: 2014-29529
Issue No(s): 3001; 3009
Case No.: [REDACTED]
Hearing Date: April 10, 2014
County: SSPC-EAST (98)

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 three-way telephone hearing was held on April 10, 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 Supervisor.

ISSUES

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective January 13, 2014?

Did the Department properly calculate Claimant's FAP group composition?

Did the Department properly process Claimant's reported change (employment ended)?

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 [REDACTED], Claimant applied online for FAP benefits.
2. On J [REDACTED], the Department conducted a telephone interview with the Claimant in which she confirmed a group size of five, reported earned/unearned income, and a rent expense. See Exhibit 1.

3. On [REDACTED], the Department sent Claimant a Verification of Employment, Shelter Verification, and Verification Checklist (VCL), which requested verification of Claimant's and additional group member's wages; verification of loss of employment for a group member; and verification of shelter expense. (See Exhibit 1). All verifications were due back by [REDACTED]. (See Exhibit 1).
4. The Department did not receive the verifications by the due date.
5. On [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were denied effective [REDACTED], ongoing, due to the failure to comply with the verification requirements. (See Exhibit 1).
6. On [REDACTED], the Notice of Case Action also notified Claimant that one of her household members was ineligible for assistance due to a criminal justice disqualification. (See Exhibit 1).
7. On [REDACTED], the Department sent Claimant a Quick Note, which notified her that the Department did not receive any verifications and the case would close until the requested documentation is returned. (See Exhibit 1).
8. On [REDACTED], the Department received, via fax, some of the requested verification, which included Claimant and her additional group member's wages. (See Exhibit 1).
9. On [REDACTED], the Department contacted Claimant to inform her that all of the documentation was not provided and the case could not be reinstated. (See Exhibit 1).
10. On [REDACTED], the Department received, via fax, the remaining verification requests, which included the verification of loss of employment (other household member) and shelter verification. (See Exhibit 1).
11. On [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that she was approved for FAP benefits effective [REDACTED] to [REDACTED] in the amount of \$57 and for a group size of four. (See Exhibit 1).
12. On [REDACTED], the Notice of Case Action also notified Claimant that she was approved for FAP benefits effective [REDACTED], ongoing, in the amount of \$85 and for a group size of four. (See Exhibit 1).
13. On [REDACTED], Claimant filed a hearing request, protesting the FAP allotment, denial, and group composition. (See Exhibit 1).
14. On [REDACTED], Claimant also reported that her daughter's employment had ended. (See Exhibit 1).

15. On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled her for a hearing on [REDACTED].
16. On [REDACTED], the MAHS sent Claimant an Amended Notice of Hearing, which scheduled her for a three-way hearing on [REDACTED].
17. On [REDACTED], the Supervising Administrative Law Judge (ALJ) sent Claimant an Order Granting Adjournment.
18. On [REDACTED], the MAHS sent Claimant a Notice of Hearing, which rescheduled her for a three-way hearing on [REDACTED].

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.

FAP Verification

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 this case, on [REDACTED], Claimant applied online for FAP benefits. On [REDACTED], the Department conducted a telephone interview with the Claimant in which she confirmed a group size of five, reported earned/unearned income, and a rent expenses. (See Exhibit 1). On [REDACTED], the Department sent Claimant a Verification of Employment, Shelter Verification, and VCL, which requested verification of Claimant's and additional group member's wages; verification of loss of employment for a group member; and verification of shelter expense. (See Exhibit 1). All

verifications were due back by [REDACTED]. (See Exhibit 1). The Department testified that it did not receive the verifications by the due date.

On [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were denied effective [REDACTED], ongoing, due to the failure to comply with the verification requirements. (See Exhibit 1). On [REDACTED], [REDACTED] the Department sent Claimant a Quick Note, which notified her that the Department did not receive any verifications and the case will close until the requested documentation is returned. (See Exhibit 1).

On [REDACTED], the Department received, via fax, some of the requested verification, which included Claimant and her additional group member's wages. (See Exhibit 1). On [REDACTED], the Department contacted Claimant to inform her that all of the documentation was not provided and the case could not be reinstated. (See Exhibit 1).

On [REDACTED], the Department received, via fax, the remaining verification requests, which included the verification of loss of employment (other household member) and shelter verification. See Exhibit 1. The Department testified Claimant returned all of the requested verifications, which is after 30 days from the original application date of [REDACTED], but within 60 days of the original application date. (See Hearing Summary, Exhibit 1). Thus, on [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that she was approved for FAP benefits effective [REDACTED] to [REDACTED] in the amount of \$57 and for a group size of four. (See Exhibit 1). On [REDACTED], the Notice of Case Action also notified Claimant that she was approved for FAP benefits effective [REDACTED] ongoing, in the amount of \$85 and for a group size of four. (See Exhibit 1).

At the hearing, Claimant testified that she submitted all of the verification requirements (other than the verification of loss of employment) via the pre-paid envelope provided by the Department on [REDACTED]. However, Claimant testified that the envelope was returned back to her. Therefore, Claimant testified she had her and the additional group member's pay stubs faxed to the Department on [REDACTED]. (See Exhibit 1). Moreover, Claimant testified that the Department would not accept the documentation regarding her daughter's prior employer to show loss of employment. Thus, on [REDACTED], Claimant had her daughter's prior employer submit verification of the loss of employment and pay stubs. (See Exhibit 1).

Nevertheless, even though the Claimant is stating she mailed the verifications to the Department before the due date, the Department still failed to re-register Claimant's application back to the original application date based on Department policy.

The Department proceeds as follows when a client completes the application process **after denial** but within 60 days after the application date. BAM 115 (January 2014), p. 23.

On or before the 30th day:

- Re-register the application, using the original application date.
- If the client is eligible, determine whether to prorate benefits according to initial benefits policy in this item.

BAM 115, p. 23.

Between the 31st and 60th days:

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

BAM 115, p. 23.

In this case, the Department applied the improper policy. The Department testified that Claimant provided all requested documentation after 30 days from the original application date of [REDACTED], but within 60 days of the original application date. (See Hearing Summary, Exhibit 1). Thus, it re-registered the application using the date when the Claimant submitted the remaining verifications ([REDACTED]). However, the Department should have re-registered the application, using the original application date of [REDACTED]. When Claimant submitted the remaining verifications on [REDACTED] this was within 30 days of the application date of [REDACTED]. Therefore, the Department will re-register the application, using the original application date of [REDACTED] and determine whether to prorate benefits in accordance with Department policy. (See BAM 115, p. 23).

Criminal Justice Disqualification

In this case, Claimant was also disputing her FAP group composition. Claimant testified that her FAP benefits should reflect a group size of five rather than four. On [REDACTED] the Notice of Case Action notified Claimant that one of her household members was ineligible for assistance due to a criminal justice disqualification. (See Exhibit 1). As stated above, the Department subsequently approved Claimant for FAP benefits effective [REDACTED], ongoing, but for only a group size of four. (See Exhibit 1).

Michigan State Police (MSP) identifies clients who are currently fugitive felons on a monthly basis. BAM 811 (December 2013), p. 1. This automated process in the Department's system identifies an exact match based on first name, last name, date of birth, social security number and gender. BAM 811, p. 1.

When the Department sets a client to close, the DHS-1605, Notice of Case Action, will be generated. BAM 811, p. 1. This notice will inform the client that they have a criminal justice disqualification showing, and to go to a local law enforcement agency to resolve the issue. BAM 811, p. 1. If verification is provided showing the client is no longer a

fugitive felon, the specialist will correct the fugitive felon status in the system. BAM 811, p. 2. The next fugitive felon matches will not show the client. BAM 811, p. 2.

At the hearing, the Department did not present evidence of the fugitive felony status for the Claimant's household member; instead, it provided testimony. The Department testified that its system is interfaced with MSP and identified the household member as a fugitive felon who is subject to arrest under an outstanding warrant. Claimant acknowledged that the household member had an outstanding warrant at the time of application; however, she was unsure if it was for a felony. Moreover, Claimant testified that they resolved the outstanding warrant approximately three weeks prior to today's hearing and that the household member is no longer a fugitive. Claimant did not provide any verification at the hearing in which it showed the person is no longer a fugitive felon.

Fugitive felons are not eligible for assistance. BEM 204 (July 2013), p. 1. A fugitive felon is a person who: is subject to arrest under an outstanding warrant arising from a felony charge against that person (this includes persons charged with felony welfare fraud who fail to appear in court); is subject to arrest under an outstanding warrant for extradition arising from a criminal charge against that person in another jurisdiction; or admits to being a fugitive felon. BEM 204, p. 1.

The Department documents a fugitive felon when the following apply: an individual self discloses as a fugitive felon; a Department of Human Services (DHS) match identifies an individual as a fugitive felon; and a written statement is obtained from a law enforcement official, prosecuting attorney or Office of Inspector General (OIG) identifies an individual as a fugitive felon and locating or apprehending the individual is within the officer's official duties. BEM 204, p. 1.

The Department will disqualify the individual as a fugitive felon as long as he or she is subject to arrest under an outstanding warrant. BEM 204, p. 1.

Based on the foregoing information and evidence, the Department properly found Claimant's household member ineligible for FAP benefits due to the criminal justice disqualification. Because the Department properly determined the criminal justice disqualification, it properly calculated Claimant's FAP group composition to be four. See BAM 811, pp. 1-2 and BEM 204, p. 1. Even though the Department did not provide a written statement of the fugitive felon status, Claimant acknowledged that there was an outstanding warrant at that time. Therefore, the Department properly found Claimant's household member ineligible for FAP benefits due to the criminal justice disqualification and the FAP group composition is four. See BAM 811, pp. 1-2 and BEM 204, p. 1.

Loss of Employment

At the hearing, Claimant also testified that her daughter's employment had ended. Claimant testified that she never reported to the Department that her daughter's employment had ended. A review of the case record indicated that Claimant first

reported her daughter's employment ended in the request for hearing dated February 28, 2014. (See Exhibit 1).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (January 2014), p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 9. This includes reporting the starting or stopping of employment for earned income. BAM 105, p. 9.

The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2014), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, pp. 6-7.

Based on the above information, this hearing decision will not address Claimant's reported change (employment ending for daughter) for lack of jurisdiction. [See BAM 600 (March 2014), pp. 4-6]. Claimant acknowledged that she failed to notify the Department that her daughter's employment ended in accordance with Department policy. (See BAM 105, p. 9). A review of the case record indicated that Claimant first reported her daughter's employment ending in the request for hearing dated February 28, 2014. (See Exhibit 1). As such, the Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220, p. 6. Thus, the Department has 10 days from the date of the request for hearing to act on a change report. BAM 220, p. 6. If the Department failed to act on this reported change, it is an issue that occurred subsequent to Claimant's hearing request. Claimant can request another hearing to dispute the Department's failure to process a reported change. BAM 600, pp. 4-6.

In summary, the Department will re-register the FAP application, using the original application date of [REDACTED], and also reflect a group composition of four from the original application date.


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) did not act in accordance with Department policy when it improperly denied Claimant's FAP application effective [REDACTED]; and (ii) acted in accordance with Department policy when it properly found Claimant's household member ineligible for FAP benefits due to the criminal justice disqualification and thus resulting in a FAP group composition of four. It is also ordered that Claimant's reported change (employment ended) will not be addressed in the hearing for lack of jurisdiction.

Accordingly, the Department's FAP decision is AFFIRMED IN PART with respect to criminal justice disqualification and FAP group composition of four and REVERSED IN PART with respect to the improper denial effective [REDACTED].

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 FAP application dated [REDACTED];
2. Begin reprocessing the application/recalculating the FAP budget for a group size of four effective [REDACTED], ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for a group size of four from [REDACTED], 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: 4/17/2014

Date Mailed: 4/17/2014

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.

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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

EF/hw

cc:

