

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-30017
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: March 27, 2014
County: SSSPC-West-98

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 27, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's 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. Claimant was an on-going FAP recipient when the Department mailed a Redetermination (Exhibit 1 Pages 3-6) which Claimant was to complete and return by December 5, 2013.
2. Claimant previously was receiving unemployment compensation benefits (UCB) but those benefits had ended prior to the Redetermination.
3. When Claimant returned the Redetermination she reported her only income was from Supplemental Security Income (SSI) of \$ [REDACTED] monthly. (Exhibit 1 Page 4.)
4. On December 13, 2013, the Department sent Claimant a Verification Checklist (VCL) (Exhibit 1 Pages 7). She was required to provide verification of her unearned income.

5. In a February 5, 2014 Notice of Case Action, the Department informed Claimant that her FAP was denied effective February 1, 2014 because he had not provided "verification of unearned income". (Exhibit 1 Pages 8-9.)
6. On February 25, 2014, the Claimant requested a hearing (Exhibit 1 Page 2) on her benefits.

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. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105.

The Department ended Claimant's benefits because he had not verified his loss of employment.

Per BEM 103, the Department is to:

"Send 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 instructs, with respect to the FIP, SDA, MA and AMP programs,

"A collateral contact is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification.

“The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtaining the verification.”

BAM 130 does NOT place responsibility on the Department to make collateral contact for FAP applicants or recipients. For all programs, when it comes to verification, BAM 130 says:

“The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The Department testified that the typical process is for the Department to access the “Consolidated Inquiry” database to determine whether – and how much – a claimant is receiving in UCB. That database was inaccessible at the time of the Redetermination, so the Department asked Claimant to verify that her unemployment had ended. The Department could not access the database prior to filing the Hearing Summary (Exhibit 1 Page 1.) No pre-hearing conference was offered to the Claimant, and the Department made no effort to access the database between the time it filed the Hearing Summary and the time of the hearing. Claimant, meanwhile, had offered copies of her bank statements showing that the Unemployment Insurance Agency (UIA) was no longer making deposits to her account.

The issue is whether the Claimant provided timely verification in response to the request, or at least made a reasonable effort to do so. The evidence is persuasive that the Verification Checklist was mailed to the Claimant at her address of record. The evidence also establishes that the Department believed Claimant did not fully respond to the loss of employment issue by the deadline. However, she was convincing in her explanation for her response. She attempted to provide information from her bank account, and information from the UIA website. The testimony is convincing that Claimant made a reasonable effort to provide verification of his loss of employment.

The Department included, as Exhibit 1 Pages 16-17, an email exchange in which the Consolidated Inquiry access issue is discussed. The Department notes BAM 130 which says in part, “If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.” The best judgment in this case would have been, in the opinion of the undersigned, to have concluded that the UCB had ended.

The Department is encouraged to make use of the pre-hearing conference. It is conceivable that, had a pre-hearing conference been conducted, Claimant could have provided copies of her bank statements, and the Department could have accessed the database, allowing the Department to verify that her UCB had ended.

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 benefits.

DECISION AND ORDER

Accordingly, the Department's 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. Redetermine Claimant's FAP benefit eligibility, effective February 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 28, 2014

Date Mailed: March 28, 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

DTJ/las

cc:

