

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

IN THE MATTER OF:



Reg. No.: 2014-33888
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: April 23, 2014
County: Wayne (43)

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 April 23, 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], 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 [REDACTED], the Department sent Claimant a New Hire Client Notice ("new hire"), which was due back by March 10, 2014. See Exhibit 1.
3. On [REDACTED] Claimant faxed to the Department her new hire with attached pay stubs and also resubmitted the documentation at the local DHS office one week after.

4. On [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective [REDACTED], ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
5. On [REDACTED], Claimant filed a hearing request, protesting the FAP case closure. See Exhibit 1.

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. 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.

The Department requests verification by generating a DHS-4635, New Hire Notice, from its system. BAM 807 (July 2013), p. 1. When a DHS-4635 is requested, the Department automatically gives the client 10 calendar days to provide verification from the date the forms were requested. BAM 807, p. 1.

If verifications are not returned by the 10th day, the case will close for a minimum of 30 days after appropriate actions are taken by the Department, unless client returns verifications. BAM 807, p. 2.

In this case, Claimant was an ongoing recipient of FAP benefits. On February 26, 2014, the Department sent Claimant a new hire, which was due back by March 10, 2014. See Exhibit 1. The Department's hearing summary indicated that it did not receive the new hire. See Exhibit 1. Thus, on [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective [REDACTED], ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

However, it was discovered during the hearing that Claimant submitted the new hire on two separate occasions. First, on [REDACTED], Claimant faxed to the Department her new hire with attached pay stubs. The Department acknowledged during the hearing that a fax was sent on [REDACTED]. Moreover, a week after the fax, Claimant also resubmitted the documentation at the local DHS and signed the logbook. The Department did not dispute the submissions and a review of the logbook was unnecessary.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective [REDACTED], ongoing. The evidence presented that Claimant submitted the new hire via fax before the due date of [REDACTED]. Because Claimant submitted the necessary verifications before the due date, the Department improperly closed her FAP benefits effective [REDACTED], ongoing. See BAM 105, p. 7; BAM 130, pp. 5-6; and BAM 807, pp. 1-2. As such, the Department will reinstate Claimant's FAP benefits effective [REDACTED], ongoing, for the above stated reasons.

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 [REDACTED], 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 [REDACTED];
2. Begin recalculating the FAP budget for [REDACTED], ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not 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: 4/30/2014

Date Mailed: 4/30/2014

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

EF/hw

cc:

