

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

IN THE MATTER OF:

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████████████████████████████████████████

Reg. No.: 14-000725
Issue No.: 3002
Case No.: ██████████
Hearing Date: May 8, 2014
County: MACOMB 12

ADMINISTRATIVE LAW JUDGE: ROBERT J. CHAVEZ

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 May 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for received:
 FIP FAP MA SDA CDC
benefits.
2. Claimant was required to submit requested verification by March 27, 2014.

3. On March 28, 2014, the Department
 denied Claimant's application.
 closed Claimant's case.
 reduced Claimant's benefits.
4. On March 28, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On April 7, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

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), and Department of Human Services Reference Tables Manual (RFT).

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

On March 11, 2014, an Administrative Hearing was held before ALJ Gary F. Heisler regarding the same application currently at issue. In that hearing, ALJ Heisler found that the claimant had returned requested the verifications at issue in the current case, and had dropped off the verifications in question by signing the Department log book.

In the current case, in response to ALJ Heisler's order to reprocess and reinstate the application, the Department sent claimant a verification request to obtain the same verifications that were at issue in the case before ALJ Heisler.

This was error.

It has already been determined that the claimant returned the verifications in question; the Department does not have the power to sanction a claimant through application denial for not returning the verifications a second time. BAM 130 only allows sanction if a claimant fails to return properly requested verifications. As it has already been found that claimant did return the verifications in question, claimant cannot be held to have failed to return verifications if the Department requests the same verifications a second time.

Furthermore, at the hearing the Department confirmed that all verifications were now in their possession, and the case could be processed.

As such, the undersigned must hold that the Department erred when it requested the verifications a second time, when there had already been a factual finding that the verifications in question were returned.

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

- acted in accordance with Department policy when it .
- did not act in accordance with Department policy when it denied claimant's application for failing to return verifications that had been held to be in the Department's possession.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
 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 and reprocess claimant's January 10, 2014 FAP application, retroactive to the date of application.



Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **5/27/2014**
Date Mailed: **5/28/2014**

RJC/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of

this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]