

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-35216
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: May 21, 2014
County: Macomb(20)

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, telephone hearing was held on Wednesday, May 21, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, the Claimant's [REDACTED]. The Claimant's Authorized Representative, [REDACTED], was not present at the hearing. Participants on behalf of the Department of Human Services (Department) included [REDACTED], HF.

ISSUE

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

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

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 received: FAP benefits.
2. Claimant was required to submit requested verification by March 27, 2014.
3. On April 21, 2014, the Department closed Claimant's case.
4. On April 21, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.

5. On April 28, 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 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.

Additionally, the Claimant was a recipient of FAP. On February 25, 2014, the Department Caseworker sent the Claimant a [REDACTED] for written verification of that was due [REDACTED]. Department Exhibit 2-3. The Claimant failed to provide the required verification of her [REDACTED] information that was due on March 27, 2014. As a result, the Department Caseworker sent the Claimant a notice on April 21, 2014, that FAP would be closing due to failure to provide verification. BAM 220 and 802.

During the hearing, the Claimant's [REDACTED] explained that her [REDACTED] has named all the relatives in the area on the telephone interview for the redetermination. He had misunderstood the question as to who lives in the household. There is a language barrier even with the [REDACTED] [REDACTED]. The Claimant is only one in the household eligible for FAP benefits. Even though her [REDACTED] [REDACTED], he is an ineligible student.

The Department has not met their burden that the Claimant's FAP case should be closed because the Claimant failed to provide the required verification to determine continued eligibility.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's case for failure to provide verification.

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. Initiate a redetermination of the Claimant's eligibility for FAP by including only the Claimant and her [REDACTED] as members of the household retroactive to May 1, 2013. In addition, the Claimant's FAP benefits should have been continued because she asked for a timely hearing request and requested that her benefits continued.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

Carmen G. Fahie

Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/30/14

Date Mailed: 5/30/14

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 Claimant;
- 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.

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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

CGF/tb

cc:

