

**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.: 14-001953
Issue No.: 2000; 3002
Case No.: ██████████
Hearing Date: June 4, 2014
County: MACOMB-DISTRICT (12)

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 June 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective May 1, 2014?

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 March 6, 2014, Claimant applied for FAP benefits and subsequently received ongoing benefits. See Exhibit 1, p. 1.
2. On March 10, 2014, Claimant submitted a Verification of Employment regarding one of the group members (not the employment verification at issue). See Exhibit 1, pp. 5-6.
3. On March 11, 2014, the Department sent Claimant a Verification Checklist (VCL), which requested several verifications and it was due back by March 21, 2014. See Exhibit 1, p. 9.

4. On March 12, 2014, the Department sent Claimant a VCL, which requested several verifications and it was due back by March 24, 2014. See Exhibit 1, pp. 3-4.
5. On March 12, 2014, the VCL requested check stubs for February 2014 from one of the group member's employers, which is the VCL at issue in this case. See Exhibit 1, p. 3.
6. On March 20, 2014, Claimant submitted several other verification documents requested. See Exhibit 1, pp. 7-30.
7. On March 20, 2014, Claimant submitted the group member's bank statement for the month of February 2014. See Exhibit 1, pp. 12-13
8. On March 20, 2014, the bank statement contained a handwritten notation that stated that the group member only received one pay check in February (employment verification at issue). See Exhibit 1, p. 12.
9. On March 20, 2014, the bank statement showed a direct deposit from the employer in the amount of \$209.17 on February 14, 2014. See Exhibit 1, p. 13.
10. On March 25, 2014, Claimant submitted additional verification documents. See Exhibit 2, pp. 1-6.
11. The Department received all of the verifications requested, except for the group member's check stubs from February 2014.
12. On April 18, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective May 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 3, pp. 1-2.
13. On April 30, 2014, Claimant filed a hearing request, protesting her FAP case closure and Medical Assistance (MA) benefits. See Exhibit 1, p. 2.

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 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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

On April 30, 2014, Claimant also requested a hearing disputing her MA benefits. See Exhibit 1, p. 2. Shortly after commencement of the hearing, Claimant no longer disputed her MA benefits. As such, Claimant's MA hearing request (dated April 30, 2014) is DISMISSED.

FAP benefits

In this case, on March 6, 2014, Claimant applied for FAP benefits and subsequently received ongoing benefits. See Exhibit 1, p. 1. It should be noted that the FAP closure is based on Claimant's failure to comply with the verification requirements. See Exhibit 3, pp. 1-2. A review of the Notice of Case Action dated April 18, 2014, listed several verification documents that were not received. See Exhibit 1, p. 2. However, the Department acknowledged that it received all of the verifications requested, except, for one of the additional group member's check stubs for February 2014. Based on this information, the FAP closure was based solely on the Department's argument of not receiving this additional group member's check stubs from February 2014.

On March 10, 2014, Claimant submitted a Verification of Employment regarding one of the group members (not the employment verification at issue). See Exhibit 1, pp. 5-6. On March 11, 2014, the Department sent Claimant a VCL, which requested several verifications and it was due back by March 21, 2014. See Exhibit 1, p. 9. On March 12, 2014, the Department sent Claimant a VCL, which requested several verifications and it was due back by March 24, 2014. See Exhibit 1, pp. 3-4. On March 12, 2014, the VCL requested check stubs for February 2014 from one of the group member's employers, which is the VCL at issue in this case. See Exhibit 1, p. 3.

At the hearing, Claimant testified that she believed her daughter had emailed the February 2014 check stub to the Department caseworker on or around March 18, 2014. However, the Department testified that it spoke to caseworker and no such e-mail was received.

Additionally, on March 20, 2014, Claimant submitted several other verification documents requested. See Exhibit 1, pp. 7-30. On March 20, 2014, Claimant submitted the group member's bank statement for the month of February 2014. See Exhibit 1, pp. 12-13. The bank statement contained a handwritten notation that stated that the group member only received one pay check in February (employment verification at issue). See Exhibit 1, p. 12. Also, the bank statement showed a direct deposit from the employer in the amount of \$209.17 on February 14, 2014. See Exhibit 1, p. 13.

Then, on or around March 24, 2014, Claimant testified that she spoke with the DHS caseworker (who was not present at hearing) regarding the remaining verifications that Claimant had to submit. Claimant testified that the DHS caseworker never mentioned that she had to submit the additional group member's pay stub. It should be noted that Claimant testified there was only one pay stub for February 2014. Thus, Claimant submitted additional verification on March 25, 2014, but did not include the group member's pay stub. See Exhibit 2, pp. 1-6. Claimant testified that she did not include the pay stub because the DHS caseworker never requested it per the alleged phone conversation. Nonetheless, the Department testified that it received all of the verifications requested, except, for the group member's check stubs from February 2014. Thus, on April 18, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective May 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 3, pp. 1-2.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130 (April 2014), 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.

The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective May 1, 2014.

First, it is found that Claimant made a reasonable effort to provide the verification before the time period has elapsed. As stated previously, the FAP closure was based solely

on the Department's argument of not receiving the additional group member's check stubs from February 2014. Even though the evidence presented that the Department did not receive any actual pay stubs, Claimant still made a reasonable effort to provide the verifications before the time period had elapsed. BAM 130, p. 6. On March 20, 2014, Claimant submitted the group member's bank statement, which showed a direct deposit from the employer in the amount of \$209.17 on February 14, 2014. See Exhibit 1, p. 13. This verification was submitted before the due date of March 24, 2014. See Exhibit 1, pp. 3-4. Moreover, the bank statement indicated the employer's name for the direct deposit, which was similar to the employer listed in the VCL request. See Exhibit 1, pp. 3 and 13. As such, Claimant made a reasonable effort of providing the verification of group member's employment for February 2014 (e.g., the bank statement) before the time period had elapsed. See BAM 130, p. 6.

Second, the Department could have also used the best available information Claimant had provided when she submitted the bank statement. See BAM 130, p. 3. A review of the bank statement indicated the total amount of the direct deposit. See Exhibit 1, p. 13. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. As such, the Department could have used this best available information Claimant had provided to determine the FAP group's ongoing eligibility. See BAM 130, p. 3.

For the reasons stated above, the Department improperly closed Claimant's FAP benefits effective May 1, 2014, in accordance with Department policy. See BAM 130, pp. 3 and 6.

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 May 1, 2014.

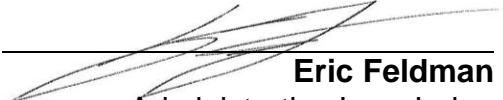
Accordingly, the Department's FAP decision is REVERSED.

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 May 1, 2014;
2. Begin recalculating the FAP budget for May 1, 2014, ongoing, in accordance with Department policy;

3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from May 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA hearing request (dated April 30, 2014) is **DISMISSED**.


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

Date Signed: **6/5/2014**

Date Mailed: **6/5/2014**

EJF/cl

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

