

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

IN THE MATTER OF:

████████████████████
██
██

Reg. No.: 14-002268
Issue No.: 3001
Case No.: ██████████
Hearing Date: June 11, 2014
County: MACOMB-DISTRICT (20)

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 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's Authorized Hearing Representative (AHR), ██████████ ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Hearings Facilitator.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) benefits effective April 14, 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 April 12, 2014, Claimant applied online for FAP benefits and the Department processed the application on April 14, 2014. See Exhibit 1, p. 1.
2. On April 14, 2014, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's spouse's alien status and other documentation. See Exhibit 1, pp. 2-3. The verifications were due back by April 24, 2014. See Exhibit 1, p. 1.
3. On an unspecified date, Claimant submitted the verifications timely (before April 24, 2014). See Exhibit 1, p. 1.

4. On an unspecified date, the Department had a system's error and was unable to verify the Claimant's and/or spouse's citizenship/alien status, resulting in the denial of FAP benefits. See Exhibit 1, p. 1.
5. On April 28, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were denied effective April 14, 2014, ongoing, due to Claimant's failure to comply with the verification requirements. See Exhibit 1, pp. 8-9.
6. On May 7, 2014, Claimant's AHR filed a hearing request, protesting the FAP denial. See Exhibit 1, pp. 6-7.

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.

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 requests. 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.

In this case, on April 12, 2014, Claimant applied online for FAP benefits and the Department processed the application on April 14, 2014. See Exhibit 1, p. 1. On April 14, 2014, the Department sent Claimant a VCL, which requested verification of Claimant's spouse's alien status and other documentation. See Exhibit 1, pp. 2-3. The verifications were due back by April 24, 2014. See Exhibit 1, p. 1. On an unspecified date, Claimant submitted the verifications timely (before April 24, 2014). See Exhibit 1, p. 1.

Additionally, on an unspecified date, the Department had a system's error and was unable to verify the Claimant's and/or spouse's citizenship/alien status, resulting in the

denial of FAP benefits. See Exhibit 1, p. 1. The Department testified that it received all the necessary verifications. Based on the testimony, it appeared the system error was based on the Department's alien status page, which resulted in the denial. See Exhibit 1, p. 1. Nevertheless, on April 28, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were denied effective April 14, 2014, ongoing, due to Claimant's failure to comply with the verification requirements. See Exhibit 1, pp. 8-9. Specifically, the denial was based on not providing verification of the spouse's alien status and verification of alien status undeclared not returned for the Claimant. See Exhibit 1, p. 9. It should be noted that the VCL never requested verification of the Claimant's alien status and only for the spouse. See Exhibit 1, pp. 2-3. Moreover, the Department acknowledged that the denial was based on Department error due to its computer system.

On May 7, 2014, Claimant's AHR filed a hearing request, protesting the FAP denial. See Exhibit 1, pp. 6-7. It should be noted that subsequent to the hearing, on May 9, 2014, the Department submitted a remedy ticket to resolve the issue. See Exhibit 1, p. 5. However, during the hearing, Claimant's issue still has not been resolved and appears to be pending at this time.

The Department determines the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 (January 2014), p. 1. A person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 225, p. 1.

For FAP benefits, secondary evidence of citizenship is documentary evidence of satisfactory reliability that is used when primary evidence is not available. BEM 225, p. 22. Secondary evidence includes verification with the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database. BEM 225, pp. 22 and 24. The computer issue in this case deals with the SAVE database. See Exhibit 1, pp. 1 and 5.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FAP benefits effective April 14, 2014. As stated above, the Department acknowledged that the denial was based on Department error due to its computer system. There was no dispute as to all verifications being submitted timely, including proper verification of the spouse's alien status documentation. Moreover, the Department's error is related to the alien status page via the SAVE database and the issue has not been resolved. See BEM 225, pp. 22 and 24 and Exhibit 1, pp. 1 and 5. Nonetheless, Claimant submitted all of the verifications timely and the Department improperly denied the application due to its system error. As such, the Department will re-register/process Claimant's FAP application dated April 14, 2014 in accordance with Department policy. See BAM 105, p. 6; BAM 130, p. 6; and BEM 225, pp. 1, 22 and 24.

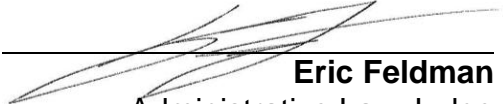
DECISION AND ORDER

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 denied the FAP application effective April 14, 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. Reregister the FAP application dated April 14, 2014;
2. Begin reprocessing the application/recalculating the FAP budget for April 14, 2014, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from April 14, 2014, ongoing; and
4. Notify Claimant and/or Claimant's AHR 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: **6/13/2014**

Date Mailed: **6/13/2014**

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

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]
[REDACTED]
[REDACTED]