

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002238
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: JUNE 11, 2014
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case for failure to verify?

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 applied for FAP on April 2, 2014, indicating that she was employed at Auntie Anne's.
2. The Department approved Claimant for expedited FAP benefits for April 2, 2014 to April 30, 2014, with ongoing FAP eligibility contingent upon Claimant providing additional verifications.
3. On April 7, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting verification of loss of employment from [REDACTED], [REDACTED], and [REDACTED], and check stubs for March 2014 by April 17, 2014.

4. On April 23, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP case was closing effective May 1, 2014 because she had failed to verify her earned income and her loss of employment.

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.

Additionally, Claimant was approved for FAP benefits for the period from April 2, 2014, when she applied, to April 30, 2014. At the hearing, the Department testified that Claimant was approved for expedited FAP benefits with ongoing eligibility subject to verification of additional requested documentation.

FAP applicants eligible for expedited service must provide minimum verification in order to receive expedited FAP benefits. BAM 117 (October 2013), pp. 1-3. FAP groups that do not provide all additional required verifications are not issued benefits for subsequent months until they provide the waived verification or complete a redetermination. BAM 117, p. 5. If the client fails to verify requested information by the 10th day following the request (or by the extended date, if granted), the benefit period will expire at the end of the expedited month unless the verification is returned within 30 days of the date of the application and the application is subject to subsequent processing. BAM 117, p. 5. If the verifications are returned between 31 and 60 days after the application was filed, the Department reregisters the application using the date the client completed the process, and if the client is eligible, the Department prorates benefits from the date the client complied. BAM 115 (March 2014), p. 23.

In this case, the Department sent Claimant an April 7, 2014 VCL requesting verification loss of employment from [REDACTED], [REDACTED] and [REDACTED] and paystubs for March 2014 for her current employment by April 17, 2014. The Department closed Claimant's case because it contends that it did not receive any of the requested verifications.

At the hearing, Claimant credibly testified that she mailed in her paystubs for her current employer for February, March and April 2014. She explained that she addressed the envelope containing the paystubs to the Department's Van Dyke address indicated on the VCL and deposited it in the mailbox at the mall where her employer was located.

Claimant also credibly testified that she called her worker within a day or two of sending in the paystubs and left a voicemail asking her to confirm her receipt of the paystubs but did not receive a response. Although the Department testified that it was policy for a worker to respond to calls within 24 hours of receipt and it had no evidence that Claimant called in, Claimant's worker was not at the hearing to dispute Claimant's testimony. Although Claimant's testimony was not entirely clear concerning when exactly she sent in the paystubs, her testimony established that they were sent in not later the end of the month, which would be less than 30 days from the application date, making the verifications subject to subsequent processing for uninterrupted FAP receipt if eligibility was established. Because Claimant established that she timely sent in the paystubs, the Department did not act in accordance with Department policy to the extent that it closed Claimant's FAP case for failure to verify her current employment. BAM 130 (April 2014), p. 6.

The Department also relied on Claimant's failure to verify her loss of employment with three previous employers in closing her FAP case. The Department explained that it required Claimant to verify her loss of employment with [REDACTED], [REDACTED] and [REDACTED] because Claimant had identified those employers in prior FAP applications and never verified end of employment with any of them.

Under Department policy, a client must verify income that stopped within the 30 days prior to the application date or while the application is pending before the Department will certify the client's eligibility determination group. BEM 505 (July 2013), p. 13. If eligibility fails due to lack of verification of stopped income, a client who reapplies does not need to verify stopped income if it has been over 30 days. BEM 505, p. 13. The Department acknowledged that Claimant did not identify any of the employers at issue in her April 2, 2014 application and there was no evidence that she had been employed with any of them within the 30 days prior to her current application. Claimant testified that she had not been employed with the employers referenced by the Department in over two years. Under these facts, Claimant was not required to verify her loss of employment with [REDACTED], [REDACTED] or [REDACTED], and the Department did not act in accordance with Department policy when it relied on her failure to provide these verifications in closing her FAP case.

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 closed Claimant's FAP case.

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. Reinstate Claimant's FAP case as of May 1, 2014;

2. Reprocess Claimant's FAP eligibility for May 1, 2014 ongoing;
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 decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/17/2014**

Date Mailed: **6/18/2014**

ACE / tlf

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:

