

**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.: 14-009271
Issue No.: 3002
Case No.: ██████████
Hearing Date: September 8, 2014
County: Macomb (36-Sterling Hts)

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 September 08, 2014, from Sterling Heights, Michigan. Participants on behalf of Claimant included Claimant ██████████ ██████████ ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

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

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 was an ongoing recipient of FAP benefits.
2. In connection with a FAP redetermination, the Department sent Claimant a Verification Checklist (VCL) on June 30, 2014, requesting that he verify his income and donations to his household by July 10, 2014.
3. On July 24, 2014, the Department sent Claimant a Notice of Case Action closing his FAP case effective July 1, 2014, because he had failed to verify his bank account.
4. On August 8, 2014, Claimant filed a request for hearing disputing the Department's actions concerning FAP and cash assistance.

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.

As a preliminary matter, it is noted that Claimant requested a hearing concerning FAP and cash assistance. During the hearing, Claimant testified that he wished to dismiss his hearing request concerning the cash assistance case. Accordingly, the hearing request concerning cash assistance is dismissed. The hearing proceeded to address Claimant's FAP concern.

The Department testified that Claimant's FAP case closed because he failed to verify his checking account. To be eligible for FAP, a client must establish that the value of his assets does not exceed the \$5,000 FAP asset limit. BEM 400 (July 2014), p. 5. A checking account is an asset for FAP purposes, and the value of the account must be verified at redetermination. BEM 400, pp. 14, 15, 55. Therefore, the Department could properly request verification of Claimant's checking account.

However, the June 30, 2014, VCL sent to Claimant did not request verification of his checking account, and the Department failed to present any other VCL sent to Claimant requesting verification of his checking account. The Department must tell the client what verification is required. BAM 130 (July 2014), p. 3. In the absence of any evidence that the Department requested verification of Claimant's checking account, the Department did not act in accordance with Department policy when it closed his FAP case for failure to verify.

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

Claimant's hearing request concerning the cash assistance program is DISMISSED.

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 effective July 1, 2014;
2. Reprocess Claimant's redetermination;
3. Issue supplements to Claimant for FAP benefits he is eligible to receive but did not from July 1, 2014 ongoing; and
4. Notify Claimant in writing of its decision in a DHS-1605, Notice of Case Action.


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

Date Signed: **9/10/2014**

Date Mailed: **9/10/2014**

ACE / pf

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]