

**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.: 14-010193
Issue No.: 1001; 3001
Case No.: ██████████
Hearing Date: October 13, 2014
County: WAYNE-DISTRICT 41
(FORT WAYNE)

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 October 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Hearings Facilitator.

ISSUES

Did the Department properly deny Claimant's Cash (Family Independence Program (FIP) and/or State Disability Assistance (SDA) – hereinafter referred to as "Cash") application effective August 1, 2014, due to the group's countable earnings exceeding the application income limits?

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective July 11, 2014, due to her failure to comply with the verification requirements and excess income?

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 July 11, 2014, Claimant applied for FAP and Cash benefits. See Exhibit 1, p. 1.
2. On July 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her Cash application was denied effective August 1, 2014, due to the

group's countable earnings exceeding the application income limits. See Exhibit 1, p. 6.

3. On July 17, 2014, the Department sent Claimant a Verification Checklist (VCL), which requested verification of her dependent care expenses and residential address. The VCL was due back by July 28, 2014.
4. On August 8, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective July 11, 2014, ongoing, due to her failure to provide verification of dependent care expenses and excess income. See Exhibit 1, pp. 7-12.
5. On August 20 and 26, 2014, Claimant filed two hearing requests, disputing the Cash denial and FAP closure/denial. See Exhibit 1, pp. 2-3 and 5.
6. On September 10, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing notifying her of a hearing on September 22, 2014.
7. On September 19, 2014, Claimant requested an adjournment.
8. On September 24, 2014, the Administrative Law Judge (ALJ) sent Claimant an Adjournment Order.
9. On October 2, 2014, MAHS sent Claimant a Notice of Hearing notifying her of the rescheduled hearing on October 13, 2014.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Preliminary matter

On August 20 and 26, 2014, Claimant filed two hearing requests, disputing the Cash denial and FAP closure/denial. See Exhibit 1, pp. 2-3 and 5. It was discovered that Claimant disputed the same program benefit issues on both hearing requests. As such, the hearing proceeded with addressing the Cash and FAP denials.

Cash application

In this case, on July 11, 2014, Claimant applied for FAP and Cash benefits. See Exhibit 1, p. 1. On July 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her Cash application was denied effective August 1, 2014, due to the group's countable earnings exceeding the application income limits. See Exhibit 1, p. 6. It should be noted that the second page of the Notice of Case Action detailing the denial reasons was not provided; however, the Department testified as to the specific denial reasons.

During the hearing, the Department did not provide a budget to show how the income exceeded the program limits. The Department testified that the income was based on Claimant's historical employment income it had on file. The Department testified that Claimant received biweekly pay in the amount of \$2,217.75 (gross income) based on income received in February 2014.

At the hearing, Claimant testified that at the time of application she was on maternity leave and she did not have any income. The Department testified that Claimant did not return proof that the employment was not paying her while she was on maternity leave. See Exhibit 1, p. 1. However, the Department failed to present evidence that it requested verification of her maternity leave. The Department testified as to the VCL dated July 17, 2014; however, this VCL did not request verification of maternity leave.

For FIP and SDA benefits, need is determined to exist when budgetable income is less than the payment standard established by the department. BEM 515 (July 2013), p. 1 and see also RFT 210 (December 2013), pp. 1-2 and RFT 225 (December 2013), p. 1.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2014), p. 3. Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 8. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. For FAP, FIP, and SDA cases, the Department allows the client 10 calendar days (or other

time limit specified in policy) to provide the verification that is requested. BAM 130, 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.

Additionally, the local office and client or Authorized Hearing Representative (AHR) will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2014), p. 34. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 37.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's Cash application effective August 1, 2014. See BAM 600, pp. 34-37.

First, the Department failed to present any Cash budgets to show how Claimant's income had exceeded the program limits. See BAM 600, pp. 34-37.

Second, Claimant credibly testified that she was on maternity leave at the time of application and thus, she had no source of income. The Department testified that Claimant did not return proof that the employment was not paying her while she was on maternity leave. See Exhibit 1, p. 1. Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 8. The Department uses the DHS-3503, VCL, to request verification. BAM 130, p. 3. There is clearly a discrepancy as to whether Claimant had income at the time of application. Even though the Department indicated that Claimant failed to provide proof of maternity leave, the Department failed to present evidence that it properly requested such verification. See BAM 130, pp. 3-6. As such, the Department improperly denied Claimant's Cash application effective August 1, 2014.

FAP application

In this case, on July 11, 2014, Claimant applied for FAP benefits. See Exhibit 1, p. 1. On July 17, 2014, the Department sent Claimant a VCL, which requested verification of her dependent care expenses and residential address. The VCL was due back by July 28, 2014. On August 8, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective July 11, 2014, ongoing, due to her failure to provide verification of dependent care expenses and excess income. See Exhibit 1, pp. 7-12.

As stated previously, the Department testified that Claimant did not return proof that the employment was not paying her while she was on maternity leave. See Exhibit 1, p. 1.

Again, though, the Department did not provide a budget to show how her income exceeded the program limits.

At the hearing, Claimant testified that a few days after her application, she spoke to the Department (telephone interview). Claimant testified that she notified the DHS worker that she was on maternity leave and that she had no income. During the phone interview, Claimant testified that she was notified to provide proof of her residential address and she was never notified to provide proof of her maternity leave. That same day, Claimant testified that she went to her local DHS office to provide proof of her residential address. Then, Claimant testified that she received the VCL and tried to subsequently contact her worker because she was confused why the Department requested dependent care expenses. Claimant testified that the Department never contacted her back.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's FAP application effective July 11, 2014. See BAM 600, pp. 34-37.

First, the Department failed to present any FAP budgets to show how Claimant's income had exceeded the program limits. See BAM 600, pp. 34-37.

Second, the Department's testimony indicated that Claimant failed to provide verification of her maternity leave; however, the denial notice indicated a failure to provide dependent care expenses. It is unclear why the Department indicated a different denial reason. See BAM 115 (July 2014) (the Department sends a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s)).

Additionally, based on the Department's testimony, Claimant's failure to provide verification of her maternity leave appears to have led to the FAP denial. However, the VCL dated July 17, 2014, failed to request verification of her maternity leave. Even though the Department indicated that Claimant failed to provide proof of maternity leave, the Department did not properly request such verification on July 17, 2014. See BAM 130, pp. 3-6. Moreover, Claimant credibly testified that she sought assistance as to the dependent care verification request and received no such assistance. See BAM 130, p. 3. (The client must obtain required verification, but the local office must assist if they need and request help.) For the reasons stated above, the Department improperly denied Claimant's FAP application effective July 11, 2014.


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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's Cash application effective August 1, 2014 and improperly denied Claimant's FAP application effective July 11, 2014.

Accordingly, the Department's FAP and Cash (FIP/SDA) 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 Cash and FAP application dated July 11, 2014;
2. Begin reprocessing the application/recalculating the Cash and FAP budgets in accordance with Department policy;
3. Issue supplements to Claimant for any Cash benefits she was eligible to receive but did not from August 1, 2014, ongoing;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 11, 2014, ongoing; and
5. Notify Claimant in writing of its Cash and FAP decision in accordance with Department policy.


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

Date Signed: **10/15/2014**

Date Mailed: **10/15/2014**

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]