

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011912
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: October 15, 2014
County: Kent-1 (Franklin)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 three-way telephone hearing was held on October 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED], Assistance Payments Supervisor [REDACTED], and Eligibility Specialist [REDACTED].

ISSUE

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

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 on-going recipient of FAP.
2. Claimant reported to the Department that her daughter helped her buy and prepare food.
3. On July 28, 2014, the Department mailed to Claimant a Verification Checklist (VCL) requiring her to provide various details regarding her daughter's income, assets, employment, and educational status.
4. On August 1, 2014, Claimant told the Department that her daughter was out of town and it was unlikely she would be able to respond to the VCL by the due date.

5. When the Department did not receive the verification, the Department mailed a Notice of Case Action to Claimant, closing her FAP effective October 1, 2014. (Exhibit 1 Pages 19-20.)
6. On September 11, 2014, the Claimant called and verbally requested a hearing.

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 Claimant testified that she had told the Department that her daughter occasionally stayed with her. Because of Claimant's physical limitations, her daughter would sometimes buy food and fix it for her when she visited. Claimant lived in Wayne County while her daughter was attending [REDACTED] and had her own residence. The daughter graduated in May 2014. In June 2014, Claimant lost her housing in Wayne County and moved to Kent County. Meanwhile, the daughter took a job in the metro Detroit area. The Department's witness agreed that Claimant said her daughter occasionally stayed with her, and they purchased and prepared food together.

BEM 212 (7/1/14) defines the FAP group composition. At page 3, it says, "Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room." "A person who is temporarily absent from the group is considered living with the group." It does not define the procedure when someone is "temporarily present" with the group. Intuitively, if a person is only occasionally visiting a group (even a group of 1) that person is not living with the group. Even if that visitor is purchasing and preparing food for the group, it does not make them part of the group. The Bridges Glossary (BPG) (7/1/14) does not define "sharing", "sharing a home" or "living with." It does not seem to be seriously disputed that Claimant was living in one residence, and her daughter was living in another residence. A Claimant should not face the reduction or loss of her FAP benefits just because a family member happens to occasionally help her out with grocery shopping and meal preparation, even if that family member happens to spend a night or two in the Claimant's home.

The Department mailed the VCL and Claimant did not respond by the deadline. "Clients must cooperate with the local office in determining initial and ongoing eligibility. This

includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send 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.

For all programs, when it comes to verification, BAM 130 states, “The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the VCL was mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond by the deadline. She explained to the Department that her daughter was out of town, and she could not respond by the deadline. Also, she had told the Department that her daughter stayed occasionally in her home. As explained above, that type of arrangement does not constitute “living together” in the context of FAP. The Department should have used the best available information and concluded that Claimant continued to be a group of one.

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.

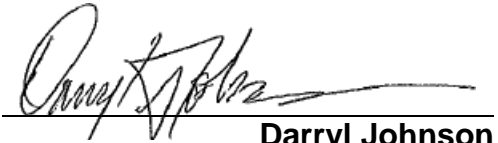
DECISION AND ORDER

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. Redetermine Claimant's FAP benefit eligibility, effective October 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/20/2014**

Date Mailed: **10/20/2014**

DJ / jaf

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:

