

**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.: 14-012410
Issue No.: 3002
Case No.: ██████████
Hearing Date: October 22, 2014
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case on the basis that she failed to verify requested information?

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. On July 23, 2014, Claimant submitted a change report informing the Department that her employment at JC Penny had ended. (Exhibit 1)
3. On August 8, 2014, the Department sent Claimant a Verification Checklist (VCL) instructing her to submit verification of her ending employment by August 18, 2014. (Exhibit 2)
4. On August 22, 2014, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2014, her FAP case would be closing on the basis that she failed to return requested verifications. (Exhibit 3)

5. On September 19, 2014, Claimant requested a hearing disputing the Department's actions.

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, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a 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, pp.6- 7.

In this case, the Department testified that because Claimant reported that she was no longer employed at JC Penny, it sent her a VCL requesting that she submit proof of her ending employment by August 18, 2014. (Exhibit 2). The Department testified that because it did not receive the requested verifications by the due date, it sent Claimant a Notice of Case Action informing her that her FAP case would be closed effective October 1, 2014. (Exhibit 3).

At the hearing, Claimant confirmed that she received the VCL and credibly testified that on August 14, 2014, she emailed her case worker to inform her that she would be going out of town for a funeral and would not be able to have her employer complete the verification of employment (VOE) form. Claimant testified that in the email, she

requested that the Department send a copy of the VOE directly to her employer, so that her employer could complete the form and send it to the Department. Claimant further credibly stated that she received an email response from her case worker indicating that the case worker would fax the VOE to Claimant's employer. Claimant presented the emails for review at the hearing. (Exhibit A). Claimant stated that she believed her employer completed the form and faxed it back to the Department; however, the Department had no record of receiving the requested ending employment documents.

Under the facts in this case and based on the evidence presented, Claimant made a reasonable effort to provide the information requested by the Department and did not indicate a refusal to do so. BAM 130, p 6. Furthermore, the Department is not to deny or terminate assistance because an employer or other source refuses to verify income. BAM 220 (July 2014), p.12; BEM 501 (July 2014), p. 9.

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 on the basis that she failed to verify requested information.

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 effective October 1, 2014;
2. Issue FAP supplements to Claimant from October 1, 2014, ongoing, in accordance with Department policy; and
3. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/27/2014**

Date Mailed: **10/27/2014**

ZB / 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]
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