

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-015018
Issue No.: 1002; 3002
Case No.: ██████████
Hearing Date: December 1, 2014
County: WAYNE-DISTRICT 49
(GRAND RIVER/WAR)

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 December 1, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist Case Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits effective November 1, 2014?

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 and FIP benefits.
2. On September 30, 2014, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's employment and it was due back by October 10, 2014. See Exhibit 1, p. 7.
3. On October 1, 2014, the Department sent Claimant a Verification of Employment (employment verification) and the form was due back by October 13, 2014. See Exhibit 1, pp. 4-5 and 11-12.

4. On October 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP and FIP benefits would close effective November 1, 2014, ongoing, due to her failure to submit the employment verification. See Exhibit 1, pp. 8-10.
5. On October 17, 2014, Claimant filed a hearing request, protesting her FAP and FIP case closures. See Exhibit 1, pp. 2-3.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2014), p. 7. This includes completion of necessary forms. BAM 105, p. 7.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (October 2014), p. 1. The Department obtains verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. The questionable information might be from the client or a third party. BAM 130, p. 1.

The Department uses documents, collateral contacts or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization or agency to verify information from the client. BAM 130, p. 2. It might be necessary when documentation is not available or when available evidence needs clarification. BAM 130, p. 2. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

For FAP 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.

In this case, Claimant was an ongoing recipient of FAP and FIP benefits. On an unspecified date, the Department redetermined Claimant's eligibility for FAP and FIP benefits (i.e., redetermination process). See BAM 210 (July 2014), pp. 1-20. As such, the Department would verify Claimant's reported employment.

On September 30, 2014, the Department sent Claimant a VCL, which requested verification of Claimant's employment and it was due back by October 10, 2014. See Exhibit 1, p. 7. It should be noted the VCL indicated "Employment Unknown" in the additional information section. See Exhibit 1, p. 7. On October 1, 2014, the Department sent Claimant an employment verification and the form was due back by October 13, 2014. See Exhibit 1, pp. 4-5 and 11-12. It is unclear why there are two different due dates.

At the hearing, the Department testified that it did not receive Claimant's employment verification before the due date. Before the VCL due date, the Department testified that it made several attempts to complete a collateral contact with Claimant's employer, but to no avail. See Exhibit 1, p. 1. On October 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP and FIP benefits would close effective November 1, 2014, ongoing, due to her failure to submit the employment verification. See Exhibit 1, pp. 8-10.

On October 14, 2014, the Department received an employment verification completed by the Claimant. See Exhibit 1, pp. 11-12. The Department testified that it questioned the employment verification because it was completed by the Claimant. Moreover, Claimant did not dispute that she completed the form and even indicated she had executive rights to sign the employer's name (which she did on the employment verification). A review of the employment verification indicates that Claimant is an administrative assistant and the business is located in Georgia. See Exhibit 1, pp. 11-12. The Department argued that due to this questionable information on the employment verification, it again attempted to contact the employer in order to verify her employment. In fact, the Department searched the employer name via the internet to provide the online information regarding Claimant's alleged employer. See Exhibit 1, pp. 13-16. Again, though, Department testified that it had been unsuccessful. In

October 2014, the Department testified that it spoke to a male individual at the employer's number, but was informed the owner was on vacation.

Finally, the Department testified that it sent an employment verification to the employer on October 17, 2014; however, never received a completed form back. The Department did not provide a copy of this subsequent employer verification. It should be noted that Claimant testified her employer had been waiting for the employment verification to be faxed to them on October 28, 2014 (pre-hearing conference), but did not receive it.

In response, Claimant testified that she is located and works for the employer in the State of Michigan, even though the company is based in Georgia. Claimant testified that her Partnership. Accountability. Training. Hope. (PATH) program (i.e., WorkFirst) never questioned her employer information she had provided in the past. In fact, Claimant testified that she faxed to the Department the employer verification on October 13, 2014 and not October 14, 2014, as alleged by the Department. Claimant provided a copy of the alleged fax confirmation. See Exhibit A, p. 1. However, this document failed to indicate it was sent to the Department on October 13, 2014. See Exhibit A, p. 1. There is a notation on the document that it was sent on October 13, 2014 at 11:46 p.m.; but the only corresponding date is January 1, 2009 on this form. See Exhibit A, p. 1. Thus, the evidence failed to indicate the employment verification was sent on October 13, 2014.

Additionally, as part of the evidence packet, the Department included two of the Claimant's bi-weekly pay checks dated September 27, 2014 and October 11, 2014. See Exhibit 1, pp. 17-18. The Department testified that it received these checks via e-mail from the PATH program on or around October 14, 2014. Again, Claimant acknowledged that she has the executive rights to complete the payroll check and that she signs the owner's name. However, Claimant failed to provide any of these alleged executive rights during the hearing.

Based on the foregoing information and evidence, the Department properly closed Claimant's FAP and FIP benefits effective November 1, 2014.

First, as previously stated, the evidence failed to indicate that the Claimant faxed the employment verification to the Department on October 13, 2014. See Exhibit A, p. 1. It was subsequently discovered that the Notice of Case Action was generated on the same day as the employment verification due date (October 13, 2014). See Exhibit 1, pp. 8 and 11. The Department should have sent the Notice of Case Action the day after the due date. Nevertheless, this is harmless error by the Department as the Claimant still failed to submit the employment verification within the 10-day timeliness standards. See BAM 130, pp. 1-6.


Second, even if the Claimant submitted the VCL before the due date, she still failed to comply with the verification requirements. It was not disputed that both the employment verification and pay stubs were all completed by the Claimant. However, Claimant

failed to provide any proof that she has the authority to sign on behalf of her employer. Without such proof, it was reasonable for the Department to question her employer information. See BAM 130, p. 1. The Department credibly testified that it attempted collateral contacts to the employer to verify her employment income, but to no avail. Therefore, Claimant failed to complete the necessary forms in order to determine her ongoing FAP and FIP eligibility and the Department properly closed Claimant's benefits in accordance with Department policy. See BAM 105, p. 7 and BAM 130, pp. 1-6. Claimant can reapply for benefits.

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 acted in accordance with Department policy when it properly closed Claimant's FAP and FIP benefits effective November 1, 2014.

Accordingly, the Department's FAP and FIP decision is **AFFIRMED**.



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

Date Signed: **12/3/2014**

Date Mailed: **12/3/2014**

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 48909-8139

CC:

[REDACTED]