

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

IN THE MATTER OF:



Reg. No.: 14-014189
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: November 19, 2014
County: DHS SSPC CENTRAL

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 November 19, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED]

ISSUE

Did the Department properly deny Claimant's September 3, 2014, Food Assistance Program application for failure to provide required verifications?

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 September 3, 2014, Claimant submitted an application for Food Assistance Program benefits.
2. On September 9, 2014, Claimant was interviewed by telephone. Claimant explained that her income is from self-employment. See page 13, case comment notes.
3. Claimant was sent a Verification Checklist (DHS-3503). See pages 6 & 7.
4. On September 19, 2014, Claimant submitted information of a \$ [REDACTED] commission fee received in September.
5. On September 30, 2014, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program application was denied for failure to provide verification of self-employment.

6. On October 15, 2014, Claimant submitted a hearing request.

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.

During this hearing Claimant testified that she was not told she had to submit 90 days of income. Claimant testified that she has received Food Assistance Program benefits in the past and they always requested 30 days of income. Claimant also testified that her self-employment is with a tax preparation business.

Bridges Administration Manual (BAM) 130 Verification and Collateral Contacts (2014) at page 3 under Obtaining Verifications states "Tell the client what verification is required, how to obtain it, and the due date".

Bridges Eligibility Manual (BEM) 502 Income From Self-Employment (2014) at page 7 under Verification Sources for all types of assistance states:

Self-Employment Income

Primary source - Income tax return provided:

The client hasn't started or ended self-employment, or received an increase/decrease in income, etc.

The tax return is still representative of future income.

The client filed a tax return.

Secondary source - DHS-431, Self-Employment Statement, with all income receipts to support claimed income.

Third source - DHS-431, Self-Employment Statement, without receipts. When this verification source is used, a Front End Eligibility (FEE) referral is required. Do **not** open the case until the FEE investigation is completed.

Bridges Eligibility Manual (BEM) 505 Prospective Budgeting/Income Change Processing (2014) at page 5 under Budgeting Income for FIP, SDA, RAP, CDC, and FAP states:

Non-Child Support Income

Using Past Income

Use past income to prospect income for the future unless changes are expected:

Use income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month.

Use income from the **past 60 or 90 days** for fluctuating or irregular income, if:

The past 30 days is not a good indicator of future income, and

The fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Historically, when a Verification Checklist (DHS-3503) was sent to a client for verification of self-employment income, three Self-Employment Income and Expense Statement (DHS-431) forms were sent also. The Self-Employment Income and Expense Statement (DHS-431) was listed on the Verification Checklist (DHS-3503) as a requested proof and stating "Return one of the following". The three statements were printed to include the name of a different month on each form.

The Verification Checklist (DHS-3503) in this case (Pages 6 & 7) lists: Recent business receipts to date; Recent accounting or other business records to date; and Recent income tax return. BEM 502 and 505 do not state a requirement for 90 days of self-employment income.

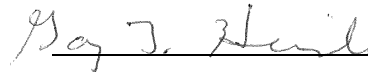
BAM 130 still requires that a client be told what verification is required. The Department did not tell Claimant she needed 90 days of self-employment income verification. The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's September 3, 2014, Food Assistance Program application for failure to provide required verifications.

DECISION AND ORDER

Accordingly, the Department's decision **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:

Reinstate Claimant's September 3, 2014, Food Assistance Program application and process it in accordance with Department policy.



Gary Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/4/2014**

Date Mailed: **12/4/2014**

GFH/hj

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:

