

**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.: 14-000649
Issue No.: 3002
Case No.: ██████████
Hearing Date: May 7, 2014
County: MACOMB-DISTRICT 12

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 May 7, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's witness, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective March 1, 2014, ongoing?

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 January 24, 2014, Claimant submitted a Semi-Annual Contact Report (semi-annual), which included hand-written payroll records of the Claimant's witness (who is part of the FAP group). See Exhibit 1.
3. Based on the submission of handwritten documents as proof of income, the Department found it to be questionable and on February 18, 2014, it sent Claimant a Verification Checklist (VCL), which requested verifications of the witness' paycheck stubs. See Exhibit 1. The verification was due back by February 28, 2014. See Exhibit 1.

4. On or around February 24, 2014, Claimant contacted the Department that the witness had lost her employment.
5. On March 5, 2014, the Department sent Claimant a subsequent VCL and Verification of Employment, which still requested verification of income for January and February of 2014 and also proof of loss of employment. See Exhibit 1. These verifications were due back by March 17, 2014. See Exhibit 1.
6. On or around March 13, 2014, Claimant contacted the Department informing it that he was having difficulty obtaining the proof of income and loss of employment verifications.
7. On March 21, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits closed effective March 1, 2014, ongoing, due to his failure to submit verification of employment. See Exhibit 1.
8. On April 2, 2014, Claimant filed a hearing request, protesting the FAP case closure. See Exhibit 1.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

BAM 130 states that the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130 (January 2014), p. 5. 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.

A report is considered complete when all of the sections (including the signature section) on the DHS-1046, Semi-Annual Contact Report, are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210 (October 2013), p. 9; see also BAM 210, p. 11. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14.

In this case, Claimant was an ongoing recipient of FAP benefits. On January 24, 2014, Claimant submitted a semi-annual, which included handwritten payroll records of the

Claimant's witness (who is part of the FAP group). See Exhibit 1. Based on the submission of handwritten documents as proof of income, the Department testified that it found the documents to be questionable. See Hearing Summary, Exhibit 1. For example, the Department testified that the handwritten payroll documents did not include the employer's name. Claimant testified, though, that the past DHS caseworkers have accepted this form of verification. Then, on February 18, 2014, the Department sent Claimant a VCL, which requested verifications of the witness' paycheck stubs. See Exhibit 1. The verification was due back by February 28, 2014. See Exhibit 1.

Then, on or around February 24, 2014, Claimant testified that he contacted the Department because the witness had lost her employment. Claimant's witness testified that her employment had ended on February 4, 2014. Based on this information, on March 5, 2014, the Department sent Claimant a subsequent VCL and Verification of Employment, which still requested verification of income for January and February of 2014 and also proof of loss of employment. See Exhibit 1. These verifications were due back by March 17, 2014. See Exhibit 1. It should be noted that the Verification of Employment was also sent to the employer.

On or around March 13, 2014, Claimant testified that he contacted the Department informing it that he was having difficulty obtaining the proof of income and loss of employment verifications. Claimant testified that he and his witness attempted to contact Claimant's witness' employer and even visited the office, however, they were unsuccessful in obtaining the requested verifications.

On March 21, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits closed effective March 1, 2014, ongoing, due to his failure to submit verification of employment. See Exhibit 1. On April 2, 2014, Claimant filed a hearing request, protesting the FAP case closure. See Exhibit 1. Subsequent to Claimant's hearing request, he testified that he spoke to the Department on April 3, 2014. On April 3, 2014, Claimant testified that the Department acknowledged receipt of the loss of employment verification. The Department testified that it did receive fax on or around this date regarding proof of loss of employment. Also, on or around April 9, 2014, Claimant testified that he again spoke to the Department, which confirmed it received verification of Claimant's witness' wages for January and February 2014. However, Claimant testified that the FAP benefits were already terminated. Again, the Department acknowledged that it did receive verification of the wages via fax on or around April 8, 2014.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective March 1, 2014.

First, this hearing decision will address the Department's argument that Claimant failed to submit proper verification of the witness' income. As stated above, Claimant submitted handwritten paystubs as he did in prior occasions. However, the Department did not accept such verification and needed additional verification of the income.

Claimant, though, had difficulty in obtaining such documentation and notified the Department on March 13, 2014.

In regards to the redetermination process, BAM 210 states that the Department does not deny or terminate assistance because an employer or other source refuses to verify income. BAM 210, p. 15, and see also BEM 501 (January 2014), p. 9. The Department can use documents, collateral contacts or home calls to verify information. BAM 130, p. 1. Moreover, the client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, it uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

Based on above information, the Department should have used the best available information that Claimant provided. Claimant credibly testified that he contacted the Department on March 13, 2014, informing it that they were having difficulty in obtaining the verification. At this point, the Department should have assisted or used the best available information. See BAM 130, p. 3. Claimant provided payroll records for January 2014 at the time that the semi-annual was submitted. The handwritten payroll records included hours worked, gross pay, and hourly rate. See Exhibit 1. As such, the Department had available information to determine eligibility. See BAM 130, p. 3. Additionally, policy states that the Department does not deny or terminate assistance because an employer or other source refuses to verify income. BEM 501, p. 9; See also BAM 210, p. 15. The Department had other sources to verify income, such as consolidated inquiry. See BEM 500 (January 2014), p. 12. Therefore, the Department improperly closed Claimant's FAP benefits effective March 1, 2014, ongoing, for the above reasons.

Second, the Department's second argument was that Claimant failed to submit verification of loss of employment. However, as stated above, Claimant properly contacted the Department on March 13, 2014, informing it that they were having difficulty obtaining such verification. At this point, the Department should have assisted in obtaining verification of loss of employment, such as a collateral contact. See BAM 130, pp. 1 and 3. The Department eventually received the verification on or around April 3, 2014. Nevertheless, the Department should have assisted the Claimant at the time the assistance was requested. The evidence indicated that the Department failed to assist the Claimant and did not use a collateral contact or other methods to verify the employment had ended. See BAM 130, pp. 1 and 3. Therefore, the Department improperly closed Claimant's FAP benefits effective March 1, 2014, ongoing, for the above reasons.

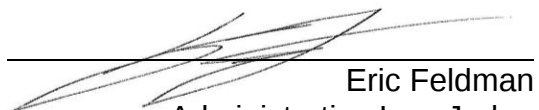
DECISION AND ORDER

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 did not act in accordance with Department policy when it improperly closed Claimant's FAP benefits effective March 1, 2014, ongoing.

Accordingly, the Department's FAP 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 as of March 1, 2014;
2. Begin recalculating the FAP budget for March 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from March 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.


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

Date Signed: **5/9/2014**

Date Mailed: **5/9/2014**

EJF / cl

CC: [REDACTED]
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