

**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.: 14-003517
Issue No.: 3002
Case No.: ██████████
Hearing Date: June 30, 2014
County: WAYNE-DISTRICT (19)

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 June 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR) ██████████, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective June 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 benefits.
2. On May 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective June 1, 2014, due to a failure to comply with the verification requirements. See Exhibit 1, pp. 5-6.
3. On May 22, 2014, Claimant's AHR filed a hearing request, protesting the FAP case closure. 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 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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matters

First, it appeared that based on Claimant's AHR's testimony, a request for hearing was also submitted regarding the Claimant's Medical Assistance (MA) benefits. However, a review of Claimant's hearing request (dated May 22, 2014) only indicated a dispute with the FAP case closure. See Exhibit 1, pp. 2-3. As such, this hearing decision will only address Claimant's FAP case closure effective June 1, 2014. See BAM 600 (March 2014), pp. 4-6.

Second, on June 12, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were reduced to \$93 effective July 1, 2014, ongoing. See Exhibit 1, p. 7. However, this Notice of Case Action was sent subsequent to Claimant's hearing request dated May 22, 2014. See Exhibit 1, pp. 2-3. Because the Notice of Case Action (dated June 12, 2014) was sent subsequent to Claimant's hearing request, this hearing lacks the jurisdiction to address the reduction in FAP benefits. See BAM 600, pp. 4-6. Claimant can request another hearing to dispute her reduction in FAP benefits. BAM 600, p. 6.

FAP case closure

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (April 2014), 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 benefits. On May 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective June 1, 2014, due to a failure to comply with the verification requirements. See Exhibit 1, pp. 5-6. At the hearing, it was unclear from either party of what verification was requested and/or not provided that led to the notice of case closure letter dated May 16, 2014. Moreover, the Department failed to provide evidence (e.g., Verification Checklist (VCL)) regarding the documentation requested that led to the alleged failure by the Claimant to comply with the verification requirements.

The local office and client or AHR will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 36. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP benefits effective June 1, 2014. The Department failed to establish that the Claimant did not comply with the verification requirements (e.g., no VCL presented). As such, the Department improperly closed Claimant's FAP benefits effective June 1, 2014 and it will reinstate her benefits from the effective closure date. BAM 105, p. 6; and BAM 130, p. 6.

It should be noted that an Eligibility Summary was provided as evidence and indicated that Claimant received \$189 in FAP benefits for June and July 2014. See Exhibit 1, p. 4. Also, the hearing summary indicated that a budget was completed and benefits were restored. See Exhibit 1, p. 1. It is unclear if benefits were reinstated due to a timely hearing request or if verification was provided. See BAM 600, pp. 23-24. Nevertheless, the evidence presented that Claimant's FAP benefits were improperly closed effective June 1, 2014 and the Department will reinstate benefits for the above stated 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP benefits effective June 1, 2014.

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 June 1, 2014;
2. Begin recalculating the FAP budget for June 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from June 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: **7/2/2014**

Date Mailed: **7/2/2014**

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.

