

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005953
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: July 30, 2014
County: Wayne-District 41

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 July 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator, and [REDACTED], Eligibility Specialist and translator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case for failure 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. On May 8, 2014, Claimant applied for FAP benefits and was approved for expedited benefits.
2. On May 8, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting verification of her husband's employment, her heat expenses and her address by May 19, 2014.
3. The Department did not receive a response to the VCL.
4. On May 25, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP case would close effective June 1, 2014.

5. On June 25, 2014, Claimant filed a request for 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, following a May 8, 2014 FAP application, Claimant was approved for expedited FAP benefits pending verification of additional requested documentation.

FAP applicants eligible for expedited service must provide minimum verification in order to receive expedited FAP benefits. BAM 117 (October 2013), pp. 1-3. FAP groups that do not provide all additional required verifications are not issued benefits for subsequent months until they provide the waived verification or complete a redetermination. BAM 117, p. 5. If the client fails to verify requested information by the 10th day following the request (or by the extended date, if granted), the benefit period will expire at the end of the expedited month unless the verification is returned within 30 days of the date of the application and the application is subject to subsequent processing. BAM 117, p. 5. If the verifications are returned between 31 and 60 days after the application was filed, the Department reregisters the application using the date the client completed the process, and if the client is eligible, the Department prorates benefits from the date the client complied. BAM 115 (March 2014), p. 23.

In this case, the Department testified that Claimant's ongoing FAP eligibility was denied because she failed to verify her heat expenses, address and husband's employment. A VCL requesting these verifications was sent to Claimant on May 8, 2014 and no response was received prior to the hearing date.

At the hearing, Claimant testified that she had a difficulty getting verification of her husband's employment because the employer refused to cooperate. The Department worker acknowledged that Claimant had notified him of her difficulty obtaining income verification. The Department may not deny or terminate assistance because an employer refuses to verify income. BEM 501 (January 2014), p. 9; BEM 500 (January 2014), p. 12. BAM 105 (April 2014), p. 16. Further, the Department local office must assist clients who ask for help in gathering verification. BAM 105, p. 16; BAM 130 (April

2014), p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department must use the best available information and, if no evidence is available, its best judgment. BAM 130, p. 3.

The evidence in this case showed that Claimant had applied for FAP benefits on several occasions but her case continued to close because she was unable to verify her husband's income. The Department was aware of Claimant's difficulty in obtaining the requested verifications and the only assistance provided was suggestions about acceptable verifications from the employer. Based on the evidence presented, the Department failed to assist Claimant in gathering the requested verifications, and, in light of Claimant's inability to obtain the verifications, it was required to use the best available information concerning the husband's income. Therefore, the Department did not act in accordance with Department policy to the extent it relied on Claimant's failure to verify her husband's employment income in closing Claimant's FAP case.

The May 25, 2014 Notice of Case Action indicated that Claimant's case was closed not only for the failure to verify employment income, but also because of failure to verify heat expenses and address. Claimant admitted that she did not submit those verifications because she was unable to verify the employment income. The Department acknowledged that Claimant's failure to verify her heating expense would affect the calculation of the excess shelter deduction applicable in the determination of her net income, but would not necessarily result in denial of FAP eligibility. See BEM 554 (May 2014), p. 26 (providing that the heat obligation must be verified to allow the heat and utility standard).

With respect to the verification of address issue, Department policy provides that for FAP only, the Department must verify that the individual lives in the area that the Department's local office services. BEM 220 (February 2014), pp 5-6. The Department testified that, because Claimant had reported that she was moving to a new home on Proctor, it sought to verify that address. However, the evidence at the hearing established that at the time of application, Claimant was living at a Tarnow address. Because she was living at the Tarnow address, it is unclear why she would need to verify the Proctor street address. Therefore, the Department did not act in accordance with Department policy when it relied on the failure to verify the Proctor address to close Claimant's FAP case.

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.

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 June 1, 2014
2. Reprocess Claimant's FAP eligibility for June 1, 2014 ongoing;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive from June 1, 2014 ongoing; and
4. Notify Claimant in writing of its decision.



Alice C. Elkin

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

Date Signed: **8/6/2014**

Date Mailed: **8/6/2014**

ACE / tlf

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:

