

**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.: 14-006735
Issue No.: 3002
Case No.: ██████████
Hearing Date: September 15, 2014
County: MACOMB-DISTRICT (20)

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 September 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's witness/fiancée/interpreter, ██████████g. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Hearings Facilitator.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application?

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 or around May 22, 2014, Claimant applied for FAP benefits.
2. On May 27, 2014, the Department sent Claimant a Verification Checklist (VCL), which was due back by June 6, 2014. See Exhibit 1, pp. 3-5.
3. On June 12, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP application was denied effective May 22, 2014, due to his failure to comply with the verification requirements. See Exhibit 1, pp. 6-11.
4. On June 9, 2014, Claimant/witness/Authorized Hearing Representative (AHR) filed a hearing request, protesting the FAP denial. See Exhibit 1, p. 2.

5. On July 29, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on August 11, 2014.
6. On August 5, 2014, Claimant attempted to submit a Hearing Request Withdrawal.
7. On August 18, 2014, the Administrative Law Judge (ALJ) sent Claimant an Order Denying Hearing Request Withdrawal.
8. On September 4, 2014, MAHS sent Claimant a Notice of Hearing, which re-scheduled Claimant for a hearing on September 15, 2014.

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.

Preliminary matters

First, it was discovered during the hearing that Claimant had an AHR. See Exhibit 1, p. 2. However, the AHR was not present for the hearing nor was the Notice of Hearing ever sent to AHR. Nevertheless, Claimant testified that he waived his right to his representative and chose to proceed with the hearing without his AHR.

Second, it was discovered that Claimant applied again in June 2014 and additional verifications were requested and due by July 7, 2014. See Exhibit 1, p. 2. Claimant's hearing request indicated that he submitted the subsequent verifications on July 2, 2014. During the hearing, the witness testified that Claimant was disputing the FAP application dated on or around May 22, 2014. As such, this hearing will only address Claimant's initial FAP application (dated on or around May 22, 2014). Claimant can request another hearing to dispute the subsequent application. See BAM 600 (July 2014), pp. 4-6.

FAP application

On or around May 22, 2014, Claimant applied for FAP benefits. On May 27, 2014, the Department sent Claimant a VCL, which was due back by June 6, 2014. See Exhibit 1, pp. 3-5. Claimant's witness acknowledged receipt of the VCL. On June 12, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP application was denied effective May 22, 2014, due to his failure to comply with the verification requirements. See Exhibit 1, pp. 6-11.

At the hearing, the Department testified that it did not receive the requested verifications before the due date. The Department also testified that it did receive some of the requested verifications on June 20, 2014, July 2, 2014, and July 18, 2014. It appears that the additional verifications received were linked to possible subsequent applications. However, the Department testified that Claimant still failed to submit the proper verifications regarding his pay stubs. The Department testified that Claimant submitted one pay stub per month rather than consecutive pay stubs. Finally, the Department testified that Claimant did not submit all of the requested asset verifications until July 18, 2014.

Claimant's witness testified that she submitted the verifications before the due date at the local DHS office. Claimant's witness testified that she signed the log book. Claimant's witness could not recall specifically, but appeared to indicate the verifications were submitted the first week of June 2014 (June 2 to June 6 of 2014). As such, the Department retrieved the log book and reviewed it during the hearing. The Department testified that it did not discover a verification submission.

Additionally, Claimant's witness testified that she left voicemail and sent an e-mail to the DHS caseworker, however, did not receive contact back from her DHS worker. See Exhibit 1, p. 2. Claimant's witness testified that she was able to get a hold of the supervisor in order to have Claimant's worker contact the witness back. Eventually, Claimant's witness testified she spoke to the DHS worker and stated additional documents were requested. The witness testified that she submitted the additional documents the following day. The Department could not testify to any phone calls received. The witness also testified that Claimant is paid biweekly; however, she only submitted paystubs for each month (April, May, and June of 2014). Claimant's witness testified that she notified that DHS caseworker that she will turn in one pay stub for each month because she could not locate each of the Claimant's pay stubs.

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.

The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. 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.

The client must obtain required verification, but you 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, 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.

The Department also conducts subsequent processing of FAP applications when a client completes the application process **after denial** but within 60 days after the application date. See BAM 115 (March 2014), p. 23.

Based on the foregoing information and evidence, the Department properly denied Claimant's FAP application effective May 22, 2014.

First, even though Claimant's witness testified that she contacted the Department, the Claimant failed to submit the necessary verifications before the due date. Claimant's witness alleged that she submitted the verifications at the drop box; however, the evidence presented that Claimant did not sign the logbook before the verification due date.


Second, BAM 115 policy allows subsequent processing of the FAP applications if the Claimant completes it after denial. See BAM 115, p. 23. However, this ALJ lacks the jurisdiction to address whether the Department should subsequently process Claimant's FAP application. The evidence presented that Claimant submitted additional verifications that were subsequent to the hearing request. As such, this ALJ lacks the jurisdiction to address if whether BAM 115's subsequent processing policy is applicable (i.e., asset verifications submitted on July 18, 2014; this occurred after the hearing request). See BAM 600, pp. 4-6.

Third, a review of Claimant's VCL indicated that he had to contact the Office of Child Support (OCS). See Exhibit 1, p. 5. The Department testified that the OCS was not present for the hearing. Nevertheless, the Claimant failed to complete the necessary forms to determine his FAP eligibility. BAM 105, p. 6. Because the Claimant failed to submit the necessary verifications before the due date, the Department acted in accordance with Department policy when it denied the FAP application. BAM 105, p. 6 and BAM 130, p. 6.

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 denied Claimant's FAP application effective May 22, 2014.

Accordingly, the Department's FAP decision is AFFIRMED.



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

Date Signed: **9/19/2014**

Date Mailed: **9/19/2014**

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 48909-07322

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]