

**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.: 14-007547
Issue No.: 3002
Case No.: ██████████
Hearing Date: September 10, 2014
County: Macomb (12-Mt Clemens)

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 September 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

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 7, 2014, Claimant applied for FAP benefits.
2. On May 10, 2014, Claimant was approved for expedited FAP benefits.
3. On May 15, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting that she verify her self-employment income, donations to her household, and rent by May 27, 2014.
4. Claimant timely submitted verification of her rent and donations and a letter dated May 27, 2014, stating that she had not worked a single day in 2014.
5. On July 11, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were denied for June 1, 2014, ongoing because she had failed to verify her self-employment income.

6. On July 22, 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, the July 11, 2014, Notice of Case Action notified Claimant that her expedited FAP case closed effective June 1, 2014, because she had failed to verify her self-employment income. FAP groups that are approved for expedited FAP benefits must provide all additional required verifications and are not issued benefits for subsequent months until they provide the waived verification or complete a redetermination. BAM 117 (October 2013), p. 5.

The Department testified that, although Claimant had not identified any self-employment income in her May 7, 2014, FAP application, because it was aware from Claimant's active Medical Assistance case with the Department that Claimant had previously received self-employment income as a nail technician, it requested verification of this income in the May 15, 2014, VCL it sent to her. In the comments section of the VCL, the worker asked Claimant to "return verification of [her] self-employment income as a nail [technician] from 12/01/2013-05/31/2014" as well as a copy of her 2013 tax return and attached schedule C form. In response, Claimant submitted a handwritten letter to the Department dated May 27, 2014, in which she advised the Department that she had not received any self-employment income to date because she had not worked as a nail technician at any time during 2014. The Department concluded that Claimant's verification of self-employment was insufficient and closed her FAP case.

A client does not have to verify employment that stopped more than 30 days prior to the application date. BEM 505 (July 2013), p. 13. In this case, the Department acknowledged that Claimant did not identify any self-employment income in the application she submitted on May 7, 2014. While the Department may request verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory [see BAM 130 (July 2013), p. 1], in her May 27, 2014, letter, Claimant informed the Department that she had not worked as a nail technician in 2014 and had not received any self-employment income for the year. Under the facts

presented, Claimant's letter was sufficient to establish that she had no self-employment income.

The Department also contended that it did not receive a 2013 tax return as requested. However, a tax return serves as a primary source of verification of self-employment income only if (i) the client has not started or ended self-employment, or received an increase/decrease in income, etc., (ii) the tax return is still representative of future income, and (iii) the client filed a tax return. BEM 502 (April 2014), p. 7. Because Claimant had a decrease in her self-employment income in 2014 compared to 2013 and her tax return was not representative of future income, Claimant's tax return was not appropriate or necessary verification in this case.

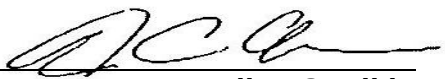
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP case effective June 1, 2014.

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. Issue supplements to Claimant for FAP benefits from June 1, 2014 ongoing in the amount issued prior to the case closure.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/11/2014**

Date Mailed: **9/11/2014**

ACE / pf

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]