

**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.: 14-007780
Issue No.: 3003
Case No.: ██████████
Hearing Date: August 25, 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 August 25, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's ██████████/Authorized Hearing Representative (AHR), ██████████. 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 August 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 1, 2014, the Department sent Claimant a Mid-Certification Contact Notice (mid-certification) to the AHR's previous address and it was due back by June 1, 2014. See Exhibit 1, pp. 4-6.
3. The Department did not receive the mid-certification.
4. On or around May to June 2014, Claimant's address was updated.
5. On June 25, 2014, the Department sent Claimant a Verification Checklist (VCL) to his new address and it was due back by July 7, 2014. See Exhibit 1, pp. 8-9.

6. On June 30, 2014, Claimant submitted the requested verifications. See Exhibit 1, p. 1.
7. On July 9, 2014, the Department sent Claimant (to his current address) a Notice of Case Action notifying him that his FAP benefits would close effective August 1, 2014, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1, pp. 11-16.
8. On July 17, 2014, Claimant's AHR filed a hearing request, protesting the FAP case closure. See Exhibit 1, p. 2.

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 Department sends a DHS-2240-A, Mid-Certification Contact Notice, for groups assigned a 24-month benefit period during the 11th month of their benefit period and a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (July 2014), p. 8.

A report is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 9. Regarding 24-month benefit periods, the mid-certification contact notice must be recorded, data collection updated and eligibility determination and benefit calculation (EDBC) results certified by the Department by the last day of the 12th month after a completed DHS-2240-A and all required verifications are received. BAM 210, p. 9.

If the DHS-2240A is not entered by the Department as completed, the Department automatically generates a redetermination packet and shortens the FAP benefit period according to policy in BAM 220, Shortening a 24-Month FAP Benefit Period. BAM 210, p. 11.

For FAP only, 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.

Also, 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 (July 2014), p. 6.

In this case, Claimant was an ongoing recipient of FAP benefits. On May 1, 2014, the Department sent Claimant a mid-certification to the AHR's previous address and it was due back by June 1, 2014. See Exhibit 1, pp. 4-6. The Department testified that it did not receive the mid-certification.

At the hearing, the AHR testified that the address notated on the mid-certification was her previous address and that her mail was forwarded to her new address (different from Claimant's updated address). At the time of the mid-certification, the AHR testified that the mid-certification was sent to the improper address. Claimant testified that he could not recall if he notified the Department of his updated address before the mid-certification was generated.

Additionally, the AHR testified that she could not recall if she completed the mid-certification or if she did not receive it. The AHR testified that she has completed few in the past and if she had completed it, she would have faxed it (no proof of fax confirmation submitted).

Then, on June 25, 2014, the Department sent Claimant a VCL to his new address and it was due back by July 7, 2014. See Exhibit 1, pp. 8-9. On June 30, 2014, Claimant submitted the requested verifications. See Exhibit 1, p. 1. Specifically, the Department testified that Claimant returned medical bills and/or receipts for medical expenses. See Exhibit 1, p. 1. It should be noted that the VCL contained Claimant's new address, thus, it meant that his address was updated sometime between the mid-certification and VCL. The Department testified that the VCL was generated because Claimant submitted a change report (i.e., address change).

Finally, on July 9, 2014, the Department sent Claimant (to his current address) a Notice of Case Action notifying him that his FAP benefits would close effective August 1, 2014, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1, pp. 11-16. The Department testified that the denial reason is incorrect because Claimant actually submitted the VCL on June 30, 2014. Instead, the Department argued that Claimant's FAP benefits closed due to the failure to submit the mid-certification. The Department argued that failure to submit a mid-certification is the same as failure to submit a verification.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2014), p. 1. There are two types of written notice: adequate and timely. BAM 220, p. 2. A notice of case action must specify the following:

- The action(s) being taken by the department.

- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

BAM 220, p. 2.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective August 1, 2014. The Department failed to notify Claimant of the proper denial reason(s) (i.e., reason(s) for the action – failure to submit a mid-certification). See BAM 220, p. 2. Claimant's FAP benefits closed based on a failure to comply with the verification requirements. See Exhibit 1, p. 12. However, Claimant actually submitted the necessary VCL documents on June 30, 2014. See Exhibit 1, p. 1. The Department argued that Claimant's failure to submit a mid-certification is the same as failure to submit a verification. Moreover, the Notice of Case Action did reference manual item BAM 210, which is where the policy of mid-certification is located. Nevertheless, the Notice of Case Action failed to notify Claimant of the proper denial reason(s) (i.e., failure to submit a mid-certification). See BAM 220, p. 2. As such, the Department will reinstate Claimant's FAP benefits effective August 1, 2014, in accordance with Department policy.

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 August 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 August 1, 2014;
2. Begin recalculating the FAP budget for August 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 August 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: **8/28/2014**

Date Mailed: **8/28/2014**

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]
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