

**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.: 14-012617
Issue No.: 3002
Case No.: ██████████
Hearing Date: October 27, 2014
County: WAYNE (93/98)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 three way hearing was held on October 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's Authorized Hearing Representative (AHR)/Interpreter. The Department failed to appear for the hearing.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits for failure to verify information necessary to determine eligibility?

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 FAP recipient.
2. On August 21, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting specific documents be returned by September 2, 2014.
3. On August 29, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective October 1, 2014 for failure to verify documents necessary to determine eligibility.
4. On September 15, 2014, Claimant requested a 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.

As a preliminary matter, Claimant testified that she mistakenly checked the box correlating with Family Independence Program benefits instead of FAP benefits. Claimant confirmed that she does not currently have FIP benefits. The Department's Hearing Summary only addressed Claimant's FAP benefits. Therefore, this decision will address Claimant's dispute with his FAP benefits.

Additionally, verifications are usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2014), p. 1. Claimant requested a hearing regarding the closure of her FAP benefits. Claimant acknowledged receipt of the Notice of Case Action which provided notice that FAP benefits would end effective October 1, 2014. The reason cited in the Notice of Case Action was failure to verify information necessary to determine eligibility.

Claimant's AHR testified that the August 21, 2014 VCL was received but not immediately opened. The VCL requested specific documents be returned by September 2, 2014. The Department is required to allow a client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p.6. The Department was not present at the hearing and therefore provided no explanation as to why the Notice of Case Action was sent out approximately four days before the expiration of the due date to return the requested information. It therefore appears that the Department failed to allow Claimant sufficient time to return the requested information and as such improperly closed Claimant's FAP benefits effective October 1, 2014.

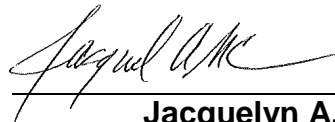
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it closed Claimant's FAP benefits effective October 1, 2014 for failure to verify information necessary to determine eligibility.

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 benefits effective October 1, 2014; and
2. Issue supplements to Claimant effective October 1, 2014.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/29/2014**

Date Mailed: **10/29/2014**

JAM / 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]