

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-013522  
Issue No.: FAP  
Case No.: [REDACTED]  
Hearing Date: December 09, 2014  
County: CALHOUN (DISTRICT 21)

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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, an in-person hearing was held on December 9, 2014, from Battle Creek, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator, and [REDACTED], Eligibility Specialist. [REDACTED] provided CART interpretation services.

**ISSUE**

Did the Department properly determine Claimant's monthly Food Assistance Program (FAP) allotment retroactive to November 2013?

Did the Department properly process Claimant's August 19, 2014, 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 August 19, 2014, a hearing was held regarding a prior closure of Claimant's FAP case.
2. On August 19, 2014, Claimant re-applied for FAP.
3. On August 29, 2014, a Hearing Decision ordered the Department to re-instate Claimant's FAP case retroactive to November 2013 and re-determine his eligibility.

4. On August 29, 2014, a Verification Checklist was issued to Claimant stating what verifications were needed to determine eligibility for the August 19, 2014, FAP application. The due date was September 8, 2014.
5. On September 9, 2014, the Department received requested verifications.
6. On September 18, 2014, a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly Allotment of \$ [REDACTED] from November 1, 2013 through December 31, 2013, and \$ [REDACTED] for January 1, 2014 through July 31, 2014.
7. On September 18, 2014, a Verification Checklist was issued to Claimant stating what verifications were needed to determine eligibility for the August 19, 2014, FAP application. The due date was September 29, 2014.
8. On September 30, 2014, Claimant filed a request for hearing contesting the Department's actions.
9. On October 14, 2014, the Department denied Claimant's August 19, 2014, FAP application based on a failure to provide verifications.

#### **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.

A Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the

best available information. If no evidence is available, the Department worker is to use their best judgment. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. BAM 130.

Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. The gross amount of the current Social Security Administration (SSA) issued Supplemental Security income (SSI) and Retirement Survivors and Disability Insurance (RSDI) benefits are counted as unearned income. BEM 503.

In this case, an August 29, 2014, Hearing Decision ordered the Department to re-instate Claimant's FAP case retroactive to November 2013 and re-determine his eligibility. The September 18, 2014, Notice of Case Action stated FAP was approved with a monthly Allotment of \$█ from November 1, 2013 through December 31, 2013, and \$█ for January 1, 2014 through July 31, 2014.

Claimant questioned why the FAP monthly allotment decreased effective January 1, 2014. It was uncontested that Claimant's income from Social Security benefits increased in January 2014. The Department explained that when the increase in Claimant's income was budgeted, this resulted in the decrease in the FAP monthly allotment. Claimant's testimony indicated he now understood the reason the FAP monthly allotment decreased as of January 2014.

The Department also explained that the re-instated FAP benefits stopped as of August 2014 because the Department was processing the Claimant's August 19, 2014 FAP application. The Department had issued the August 29, 2014, Verification Checklist to Claimant stating what verifications were needed to determine eligibility for this application with a due date of September 8, 2014. Requested verifications were date stamped as received on September 9, 2014. A second Verification Checklist was then issued to Claimant on September 18, 2014, stating what verifications were needed to determine eligibility for the August 19, 2014 FAP application.

During the in-person hearing, as the Department pulled up the Verification Checklist on a computer screen, Claimant indicated he knew he had never received such a form from the Department because he never saw anything with that typeface/format. Claimant's testimony cannot be found credible because the Department did receive some of the requested verifications from Claimant on the forms printed and mailed to Claimant with the August 29, 2014, Verification Checklist. While the Claimant has a known history of mail trouble, the evidence establishes that he did receive at least the August 29, 2014 Verification Checklist with the Verification of Asset forms that were all printed and mailed together.

The Eligibility Specialist testified that she believed the outstanding verification that was not received from Claimant was for [REDACTED]. However, the submitted print outs of what verifications the Department received from Claimant on September 9, 2014, include a completed Verification of Asset form from [REDACTED]. Further, it is noted that the August 29, 2014 Verification Checklist specified which three banks account verification was needed from and completed verification of asset forms were returned for all three banks on September 9, 2014. Thus, it is unclear why checking account verification was again requested on the September 18, 2014 Verification Checklist. It is noted that unlike the prior Verification Checklist, the September 18, Verification Checklist did not include any note clarifying what specific bank verification was still needed. Lastly, there was insufficient evidence to establish whether or not Claimant provided the non-banking verifications that were also requested on the Verification Checklists.

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 determined Claimant's monthly FAP allotment for November 2013 through July 2014.
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's August 19, 2014 FAP application.


### **DECISION AND ORDER**

Accordingly, the Department's decision is

- AFFIRMED.**
- REVERSED.**
- AFFIRMED IN PART** with respect to the monthly FAP allotment for November 2013 through July 2014 and **REVERSED IN PART** with respect to processing of the August 19, 2014 FAP application.
  
- 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. Re-determine Claimant's FAP eligibility for the August 19, 2014, FAP application in accordance with Department policy.
2. Issue Claimant any supplement he may thereafter be due.



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

Date Signed: **12/12/2014**

Date Mailed: **12/12/2014**

CL/hj

**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 48909-8139

cc:

