

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015839
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: December 16, 2014
County: KENT-DISTRICT 1

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 December 16, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED] Assistance Payments Supervisor, [REDACTED] and Eligibility Specialist, [REDACTED]

ISSUE

Did the Department properly close the Claimant's case for Food Assistance Program (FAP) and did the Department properly respond to the Claimant's request to add her grandson to her 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. The Claimant received FAP benefits.
2. In mid-July, the Claimant began telephoning her worker and leaving messages informing her worker that she wished to add her grandson to her FAP case.
3. On October 1, 2014, the Department closed the Claimant's case due to her failure to submit verification of her bank account, which was requested on February 13, 2014.
4. On September 13, 2014, the Department sent the Claimant its decision.

5. On November 7, 2014, the Claimant filed a hearing request, protesting 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), and Department of Human Services Reference Tables Manual (RFT).

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, Bridges Assistance Manual (BAM) 130 (2014) p. 2 provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using either a DHS-3503 Verification Checklist, or for MA determinations, the DHS-1175, MA Determination Notice to request verification. In this case, the Department did exactly that. The Claimant testified that she did submit the requested verification to a lady behind the window at the local office. The Department testified that 2-4 people would likely handle the verification before it would be uploaded into the electronic case file. The electronic case file does not show receipt of the Claimant's verification.

The Department was asked why it took so long to close the Claimant's case if she failed to submit the verification and the Department reported that it was worker error. The Department was asked about the Claimant's messages seeking to add her grandson to her case. The Department's worker conceded on the record that the Claimant may well have called and left messages, but the worker could not remember. It is the Department that bears the burden of proving that its actions are proper and correct according to departmental policy. In this case the Claimant was informed that she needed to submit verification in February 2014. The Department then closed her case in October 2014 for failure to do so. The Department testified that this delay of over six months was error. The Department testified that could not recall whether or not the Claimant called regarding her grandson being added to the case. As such, this Administrative Law Judge concludes that it is possible, if not likely, the Claimant had submitted her verification and it simply was not uploaded into the electronic case file. The Claimant's testimony is specific, consistent in detail and persuasive. It is therefore found to be credible.

Bridges Eligibility Manual (BEM) 550 (2014) p. 4, provides that a member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. Therefore, if the Claimant left

messages in mid-July regarding her grandson being added to her FAP case it should have affected her benefits for August or possibly September if her grandson had to be deleted from another case.

The Administrative Law Judge, based upon 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 took action to close the Claimant's case failed and failed to add the Claimant's grandson her case after she reported he was in the home.

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 the Claimant's FAP case back to October 1, 2014, and
2. Redetermine the Claimant eligibility for FAP back to February 2014, as the Department cannot locate the Claimant's bank statement, and
3. As part of that redetermination verify when it is that the Claimant's grandson moved in with her and determine the Claimant's group composition in accordance with departmental policy from that date forward.



Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/22/2014**

Date Mailed: **12/22/2014**

SEH/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:



