

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

IN THE MATTER OF:

████████████████████
████████████████████
██████████
████████████████████

Reg. No.: 14-017413
Issue No.: 3002
Case No.: ██████████
Hearing Date: January 08, 2015
County: Wayne-District 19

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 January 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Assistance Payment Worker and ██████████, Family Independence Manager.

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. Claimant was an ongoing recipient of FAP benefits.
2. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed.
3. On October 17, 2014, a FAP redetermination interview was conducted with Claimant and the Department.
4. On October 17, 2014, the Department sent Claimant a Verification Checklist (VCL) instructing her to submit the requested proofs by October 27, 2014. (Exhibit 1)

5. On November 14, 2014, the Department sent Claimant a Benefit Notice informing her that her FAP case was being closed on the basis that she failed to allow the agency to verify requested information. (Exhibit 2)
6. On November 21, 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.

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (July 2014), p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 210, p. 14; BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FAP cases and verifications requested at redetermination, clients must provide the verifications by the end of the current benefit period, or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a 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, pp.6- 7.

In this case, the Department testified that because during the FAP redetermination interview Claimant reported that she receives financial assistance from her children, it sent Claimant a VCL requesting that she submit signed statements from all individuals

who are assisting her financially. The Department did not present a complete copy of the VCL for review at the hearing, so it was unclear exactly what verifications Claimant was instructed to submit.

The Department testified that although Claimant submitted some of the verifications by the October 27, 2014, due date, because Claimant only provided one statement from one of her children, the verifications were insufficient. (Exhibit 1). The Department stated that it manually sent Claimant a Benefit Notice on November 14, 2014, informing her of the FAP case closure. (Exhibit 2). Although the Department testified that Claimant's FAP case closed effective October 1, 2014, a review of the Benefit Notice establishes that it does not inform Claimant of the effective date of the case closure. (Exhibit 2).

At the hearing, Claimant testified that during the FAP redetermination interview she reported that she sometimes receives financial help from her children but because she does not see her children often, she only receives assistance occasionally and it is not in an amount greater than \$20. Claimant testified that on October 27, 2014, the day she submitted the verifications to the Department, her son gave her \$5 so that she could get to the Department. Claimant submitted a statement from her son confirming that he gave her \$5. (Exhibit 1).

Although the Department is to include the gross amount of a donation to an individual by family or friends as the individual's unearned income, in this case, based on Claimant's testimony, the income is considered inconsequential, as it is unpredictable, irregular and has no effect on continuing need. If the amount received during a calendar quarter is less than \$30, as it was in this case, the Department is to exclude the income. BEM 500 (July 2014), p. 8; BEM 503 (July 2014), p. 10.

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 because Claimant made a reasonable effort to provide the information requested by the Department and did not indicate a refusal to do so, the Department did not act in accordance with Department policy when it closed Claimant's FAP case based on a failure to verify requested information.

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 October 1, 2014;
2. Issue FAP supplements to Claimant from October 1, 2014, ongoing, in accordance with Department policy; and
3. Notify Claimant of its decision in writing



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/13/2015**

Date Mailed: **1/13/2015**

ZB / tlf

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]