

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018163
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: January 21, 2015
County: KALAMAZOO

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, a telephone hearing was held on January 21, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case based on a failure to provide verification?

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 a recipient of FAP.
2. On October 27, 2014, a Wage Match Client Notice was issued to Claimant with a due date of November 26, 2014, to provide the requested verification.
3. On October 27, 2014, a Notice of Case Action was issued to Claimant stating the FAP case would close effective December 1, 2014, based on a failure to provide verification.
4. On December 8, 2014, the Claimant filed a request for hearing protesting the Department's action.

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, 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. For FAP, 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. 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. The Department must re-register the application if the client complies within 60 days of the application date. See BAM 115 & BAM 130.

In this case, the Department issued both a Wage Match Client Notice requesting a verification and the Notice of Case Action regarding the closure of the FAP case based on a failure to provide requested verification on the same date, October 27, 2014. This did not allow Claimant the opportunity to provide any currently requested verification before the case closure.

The Hearing Facilitator testified that it appears the FAP closure was actually based on an older request for verification, a Wage Match Notice that was issued November 14, 2013, with a due date of December 16, 2013. It appears that on October 27, 2014, the Department worker marked that request as not received in the Department's computer system because it was not found in the case file. However, no documentation regarding the November 14, 2013 verification request was included in the Department's hearing packet.

The Hearing Facility indicated that further review of the case file also showed that the Department did timely receive requested verification(s) for a January 29, 2014 Wage Match Client Notice. The verification(s) received during this interim time period was apparently sufficient to determine ongoing eligibility for FAP at that time. There was

also an October 7, 2014 request for verification due October 17, 2014, but it appears this verification was re-requested on October 27, 2014, as it was the same employer.

Overall, there were multiple requests for verifications, some of which were returned and at least one was re-issued. It appears that the basis for the propose FAP closure at issue was from a November 2013 verification request, but the Department did receive verification for a subsequent request and were able to determine ongoing eligibility. Further, there was a current request for verifications issued the same date as the Notice of Case Action.

The Hearing Facility indicated that in this circumstance, when verifications were requested the same date as the notice of case action was issued, he would have allowed more time to give Claimant the opportunity to provide any outstanding needed verifications.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case based on a failure to provide verification.

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. Re-determine Claimant's eligibility for FAP retroactive to the December 1, 2014, effective date in accordance with Department policy.

2. Issue Claimant any supplement she may thereafter be due.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/28/2015**

Date Mailed: **1/28/2015**

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:

