

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018430
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: January 22, 2015
County: MACOMB-DISTRICT 12

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 22, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. 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(s)?

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 November 17, 2014, a Verification Checklist was issued to Claimant listing a due date of December 1, 2014, to return the requested verification(s).
3. On December 2, 2014, a Notice of Case Action was issued to Claimant stating the FAP case would close effective December 1, 2014.
4. On December 11, 2014, 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.

At redetermination, FAP clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification. See BAM 130 & 210.

Verifications are due the same date as the redetermination/review interview. When an interview is not required, verifications are due the date the packet is due. Bridges allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the 10th day falls on a weekend or holiday, the verification would not be due until the next business day. Bridges gives timely notice of the negative action if the time limit is not met. BAM 210

In this case, the Claimant submitted a Semi-Annual Contact report in October 2014, but the Department's computer system also showed income for her son that had been entered by a different Department office.

On November 17, 2014, the Department issued a Verification Checklist to Claimant listing a due date of December 1, 2014, to return the requested verification(s) of Claimant's son's income. The Hearing Facilitator testified that the Department did not receive the requested check stubs and on December 2, 2014, the FAP case closed. The Hearing Facilitator testified that part of the requested verification was received on December 5, 2014. The Department received check stubs for November 2013, but some check stubs from October 2013 would also be needed to complete verification of the last 30 days of earnings for the November 17, 2014, due date.

However, the Hearing Facilitator also testified that on December 1, 2014, Claimant called the Department trying to clarify why she keeps getting request for verifications, semi annual contacts, etc. in the mail. It was uncontested that the call did not end very well. The Hearing Facilitator explained that because Claimant's son turned 18 in October 2014, his income now needed to be verified and included for the FAP group.

Claimant credibly testified she originally mailed the requested verifications around November 24, 2014, well prior to December 1, 2014, due date. It was uncontested that Claimant called the Department on the December 1, 2014, due date. When Claimant learned the Department had not received the verifications she previously mailed for the November 17, 2014, Verification Checklist, Claimant re-mailed the check stubs, which were received by the Department on December 5, 2014. Claimant explained that her son does not work much and if there were no October 2013 pay stubs, he may not have worked and had any income for that part of the requested time period.

Overall, the evidence shows that while the call may not have ended well, Claimant did call the Department to clarify the request for verifications on December 1, 2014, which was the due date for the November 17, 2014, Verification Checklist. Further, upon learning the Department had not received the verifications she had mailed on or about November 24, 2014, Claimant re-mailed the requested check stubs and they were received by the Department on December 5, 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 Department policy when it closed Claimant's FAP case.

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 FAP eligibility 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
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/30/2015**

Date Mailed: **1/30/2015**

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:

