

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018588
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: January 28, 2015
County: KENT-DISTRICT 1

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 28, 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, and [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (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 November 24, 2014, Claimant applied for FAP.
2. On November 25, 2014, a Verification Checklist was issued to Claimant stating what verifications were needed by the December 5, 2014, due date.
3. On December 2, 2014, the Department received requested verifications from Claimant, including bank statements.
4. On December 12, 2014, the Department denied the November 24, 2014 FAP application because not all requested verifications had been returned.
5. No written notice was issued to Claimant for the denial of the November 24, 2014 FAP application.

6. On December 17, 2014, Claimant filed a hearing request contesting 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 (10-1-2014) p. 7.

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 (10-1-2014) pp. 1-6.

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. BAM 130, pp. 6-7.

Upon certification of eligibility results, the Department is to notify the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (10-1-2014) p. 1. Some actions that do not require a written notice of case action for FAP, but those few situations are specified: reliable information indicates the group left the state; reliable information indicates all members died. Reliable sources generally include a newspaper, friends or relatives of the group, or other agencies; supplementation over multiple months to restore lost benefits is completed; see BAM 406; from a joint FIP/SDA and FAP application, the FAP benefit began first and the FAP

approval letter indicated the benefit might decrease if FIP/SDA were later approved; the FAP benefit varies from month to month within the benefit period due to changes anticipated when the case was certified, and the group was so notified at that time; benefits are reduced for failure to repay a FAP overissuance that resulted from IPV (BAM 720) or client error (BAM 715). Also see BAM 725; the FAP certification period has expired; the group voluntarily requests closure in writing. BAM 220 pp. 4-5.

In this case, the Claimant applied for FAP on November 24, 2014. On November 25, 2014, a Verification Checklist was issued to Claimant stating what verifications were needed by the December 5, 2014, due date. On December 2, 2014, the Department received requested verifications from Claimant, including bank statements. On December 12, 2014, the Department denied the November 24, 2014 FAP application because not all requested verifications had been returned.

Claimant asserted that she did provide the requested paperwork.

The Department asserts that Claimant did not provide all requested and needed verifications by the due date. The Department explained that the outstanding verifications included proof of what happened to a CD that was previously reported to the Department.

The Verification Checklist states that a "current statement from a bank or financial institution" is an acceptable proof for a CD. The Department acknowledges that the bank statements were timely returned, but noted they do not address the previously reported CD. Claimant testified she no longer has the CD, thus she cannot provide a current verification of a CD. The lack of the CD on the current bank statements supports Claimant's testimony that she no longer has this asset. Claimant has not refused to provide verification of a current asset, and the request for verifications did not specify Claimant was required to provide verification of any previously reported assets, such as a CD, that she no longer has. If the Department still needs additional verification of what happened to the CD, or the money from a cashed out CD, Claimant should be given an opportunity to provide this information.

Further, there was no evidence that a written notice was issued to Claimant for the denial of the November 24, 2014, FAP application. None of the exceptions listed in BAM 220 apply to this case.

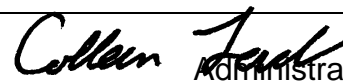
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP application.

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-process Claimant's November 24, 2014, FAP application, to include requesting any verifications that are still needed, 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: **2/4/2015**

Date Mailed: **2/4/2015**

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:

