

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

IN THE MATTER OF:

██████████
██
██

Reg. No.: 2014-115
Issue No.: 3008
Case No.: ██████████
Hearing Date: October 23, 2013
County: SSPC-East (98)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on October 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Assistant Payment Supervisor.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective October 1, 2013, ongoing?

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 August 26, 2013, Claimant applied for FAP benefits.
2. On August 26, 2013, Claimant was contacted by the Department for an expedited FAP telephone interview.
3. Claimant was subsequently approved for expedited FAP benefits.
4. On August 28, 2013, the Department sent Claimant a Notice of Case Action notifying her that she was approved for FAP benefits from August 26, 2013 to August 31, 2013 in the amount of \$38. Exhibit 1.

5. On August 28, 2013, the Notice of Case Action also notified the Claimant that her FAP benefits were approved for \$200 effective September 1, 2013, ongoing. Exhibit 1.
6. On August 27, 2013, the Department sent Claimant a Verification Checklist (VCL), which was due back by September 6, 2013. Exhibit 1.
7. The Department never received the requested verifications.
8. On September 12, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.
9. On September 23, 2013, Claimant filed a hearing request, disputing the Department's action. Exhibit 1.

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 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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130 (July 2013), p. 5. The Department sends a negative action notice when: the client indicates 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, p. 6.

In this case, on August 26, 2013, Claimant applied for FAP benefits. On August 26, 2013, Claimant was contacted by the Department for an expedited FAP telephone interview. During the telephone interview, the Department testified that Claimant stated she had a checking account and a rent expense. See Hearing Summary, Exhibit 1. Nevertheless, Claimant was subsequently approved for expedited FAP benefits. On August 28, 2013, the Department sent Claimant a Notice of Case Action notifying her

that she was approved for FAP benefits from August 26, to August 31, 2013 in the amount of \$38. Exhibit 1. On August 28, 2013, the Notice of Case Action also notified the Claimant that her FAP benefits were approved for \$200 effective September 1, 2013, ongoing. Exhibit 1.

Additionally, on August 27, 2013, the Department sent Claimant a Verification Checklist (VCL), which was due back by September 6, 2013. Exhibit 1. The VCL requested verification of Claimant's rent and checking account. See Exhibit 1. The Department never received the requested verifications. On September 12, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective October 1, 2013, ongoing, due to her failure to submit verification of rent expenses and bank checking account. Exhibit 1.

At the hearing, it was discovered that the Department contacted Claimant regarding the verifications. The Department obtained Claimant's landlord information and testified that it contacted her landlord who refused to provide the rent verification. Nevertheless, at the hearing, Claimant clarified her bank account information and the Department notified the Claimant that she could provide proof of rent via a rent receipt and/or rent agreement. The Department also agreed to reinstate Claimant's FAP benefits effective October 1, 2013, ongoing.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective October 1, 2013, ongoing. The Department agreed to reinstate Claimant's FAP case and to request verification of rent expenses.

DECISION AND ORDER

Accordingly, the Department's FAP 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 as of October 1, 2013, ongoing;
2. Initiate verification of Claimant's rent, in accordance with Department policy;
3. Begin recalculating the FAP budget for October 1, 2013, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing; and

5. Notify Claimant in writing of its FAP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 28, 2013

Date Mailed: October 28, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

EJF/cl

cc:

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