

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-11535
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: December 10, 2013
County: DHS-SSPC-West

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 December 10, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) case because requested verifications were not returned?

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 September 5, 2013, the Claimant applied for FAP benefits.
2. On September 19, 2013, a phone interview was completed and expedited FAP benefits were approved for the Claimant.
3. On September 19, 2013, a Verification Checklist was issued to the Claimant listing the verifications that were needed by the September 30, 2013, due date.
4. On October 25, 2013, the Claimant provided requested verifications, including bank statement and loss of employment.
5. On October 25, 2013 a Notice of Case Action was mailed to the Claimant stating the FAP case would close effective October 1, 2013, because verification of earned income payment was not returned.

6. On November 6, 2013, the Claimant filed a request for hearing 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 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.

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.

The Eligibility Specialist present for the December 10, 2013, telephone hearing proceedings was filling in for the worker that closed the Claimant's FAP case. The Eligibility Specialist testified that it appears the assigned worker overlooked that the needed wage verification could have been obtained by the Department via The Work Number.

The Claimant also testified that she had been calling the assigned worker to explain that because she no longer worked at [REDACTED] the pin number needed to access the system to obtain the requested wage verifications was deleted. Further, the [REDACTED] manager was on a vacation and could not provide documentation at the time the Verification Checklist was issued. The Claimant left messages when she was able, but the assigned worker did not return calls. Further, the Claimant stated the assigned worker's

voicemail became full so no additional messages could be left. Once the manager was back from vacation, the needed paperwork was completed and the Claimant turned it in to the Department.

The Eligibility Specialist present for the December 10, 2013, telephone hearing proceedings testified that the assigned worker was out of the office for some time and apologized to the Claimant for the lack of response to her attempts to contact the Department.

The evidence indicates that the Department had all of the requested verifications except for the wage information when the Notice of Case Action was issued on October 25, 2013. The BEM 130 policy requires the Department not grant an extension but must assist with obtaining verifications when a client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications. The Claimant credibly testified she left at least one message for the assigned worker prior to the due date. The Claimant credibly testified the worker never called her back. The Eligibility Specialist testified that the assigned worker was out of the office for a while and further that Department could have obtained needed verification of wages through the Work Number.

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 the 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. Reinstate the Claimant's FAP case retroactive to the October 1, 2013 closure date and re-determine eligibility in accordance with Department policy.
2. Issue the Claimant any supplement that she may thereafter be due.

/s/
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 12, 2013

Date Mailed: December 13, 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

CL/hj

cc:

