

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-12902
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Wayne (76)

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 telephone hearing was held on February 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's mother, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective August 20, 2013?

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 20, 2013, Claimant applied for FAP benefits. See Exhibit 1.
2. On August 23, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective August 20, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
3. On November 6, 2013, Claimant filed a hearing request, protesting the FAP denial. See Exhibit 1.

4. On January 17, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled her for a hearing on January 30, 2014.
5. On January 31, 2014, the Administrative Law Judge (ALJ) sent Claimant an Order Granting Adjournment.
6. On February 6, 2014, the MAHS sent Claimant a Notice of Hearing, which rescheduled her for a hearing on February 20, 2014.

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.

Preliminary matter

On November 6, 2013, Claimant filed a hearing request, protesting her FAP denial. See Exhibit 1. Claimant also testified that she was disputing her FAP benefits for the hearing request dated November 6, 2013. Then, on November 4, 2013, the Department sent Claimant a Notice of Case Action denying Claimant's cash (Family Independence Program (FIP)) application effective October 16, 2013, ongoing. See Exhibit 2. Claimant testified that she was also disputing her cash denial. However, a review of Claimant's hearing request (dated November 6, 2013), did not reference any dispute with her cash denial. See Exhibit 1. Claimant testified that she received the cash denial notice subsequent to her hearing request. Claimant testified that she subsequently filled out a hearing request protesting her cash denial on December 3, 2013; however, she never submitted the document to the Department. See Exhibit A.

Based on the foregoing information, this hearing decision will only address Claimant's FAP denial. Claimant does not dispute any cash denial in the hearing request dated November 6, 2013. See Exhibit 1. Moreover, Claimant testified that she received the cash denial reason subsequent to her hearing request.

FAP application

On August 20, 2013, Claimant applied for FAP benefits. See Exhibit 1. On August 23, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP

application was denied effective August 20, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

A review of the Notice of Case Action indicates the denial reason is failure to comply with the verification requirements. See Exhibit 1. Also, under the comments section of the denial notice, it references BEM 212 policy for mandatory parent and children group members under the age of 22. See Exhibit 1. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212 (July 2013), p. 1. However, it is unclear why this policy is referenced in the comments section. According to Notice of Case Action, Claimant was denied due to her failure to comply with the verification requirements.

At the hearing, Claimant testified that she had multiple workers on her case. Claimant also testified that she did not receive any Verification Checklist (VCL) subsequent to her application. Claimant also testified that she never received the denial notice dated August 23, 2013; however, she ultimately requested a hearing within the ninety days of the Notice of Case Action. See BAM 600 (July 2013), p. 5. Claimant testified that she did speak to her previous DHS caseworker who requested that she provide her parents pay stubs at the end of September 2013. Claimant testified that she did provide her parents pay stubs when she dropped it off at her local DHS office. It should be noted that the Hearing Summary indicated that the Department needed income from Claimant's parents to determine eligibility for the program. See Exhibit 1. Moreover, the Hearing Summary indicated that the DHS worker left a phone message for the Claimant concerning the proof of income. See Exhibit 1.

However, it was unclear from the Department if a VCL was sent to the Claimant as it was her denial reason. The Department also presented a correspondence history and a review of this document indicated no VCL being sent at the time of application. See Exhibit 1.

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.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2013), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130, p. 3.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130, 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.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FAP application effective August 20, 2013, ongoing, in accordance with Department policy.

First, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it was unable to show if it sent a VCL to the Claimant. A review of the Notice of Case Action (dated August 23, 2013) indicates that the denial reason is failure to comply with the verification requirements. See Exhibit 1. However, the Department was unable to present testimony or evidence if any verification form was sent to the Claimant. Moreover, a review of the correspondence history does not indicate any verification form being sent to the Claimant at the time of application. See Exhibit 1. Thus, it is determined that the Department improperly denied Claimant's FAP application due to its failure to send her a VCL in accordance with Department policy. See BAM 130, p. 3.

Second, the Department also did not allow Claimant with the 10 calendar days (or other time limit specified in policy) to provide the verification it requests. BAM 130, p. 5. Even if a VCL was sent properly, the Department denied her FAP benefits within three days of the application date. See Exhibit 1. The FAP application date is August 20, 2013 and Claimant was denied via the Notice of Case Action on August 23, 2013. See Exhibit 1. The Department failed to give Claimant the proper time period to provide the verifications requested. See BAM 130, pp. 5-6. Therefore, the Department improperly denied Claimant's FAP application effective August 20, 2013.

DECISION AND ORDER


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 improperly denied Claimant's FAP application effective August 20, 2013.

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. Reregister the FAP application dated August 20, 2013;
2. Begin reprocessing the application/recalculating the FAP budget for August 20, 2013, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 20, 2013; and

4. 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: February 27, 2014

Date Mailed: February 27, 2014

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/tlf

cc:

