

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13930
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Macomb County DHS #20

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 7, 2014, 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 based on a failure to comply with verification requirements?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a recipient of FAP benefits.
2. On October 21, 2013, a New Hire Client Notice was sent to the Claimant to be completed and returned by October 31, 2013.
3. On October 29, 2013, the Claimant returned the completed New Hire Employment Report and provided a net wages pay stub.
4. On October 31, 2013, a Verification Checklist was issued to the Claimant stating wage verification was needed by the November 12, 2013 due date.
5. On November 13, 2013, a Notice of Case Action was issued to the Claimant stating the FAP case would close effective December 1, 2013 because verification of earned income was not returned.

6. On November 14, 2013, the Department received additional earned income verification from the Claimant.
7. On November 20, 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.

The New Hire database is established from W-4 tax records submitted to Michigan Department of Treasury by employers. Michigan employers are required to report all new employees to Treasury within 20 days of the date of hire. The New Hires process matches the Social Security number (SSN) for all active recipients to the database. If a SSN match is found on Bridges and the New Hires database, a New Hires match is created if there is no earned income reflected in Bridges. The Department worker is to contact the client immediately if the employment has not been previously reported and request verification by generating a DHS-4635, New Hire Notice. When a DHS-4635 is requested, Bridges automatically gives the client 10 calendar days to provide verification from the date the forms were requested. If verifications are not returned by the 10th day, the case will close for a minimum of 30 days after appropriate actions are taken in Bridges, unless client returns verifications. The date the client reappears determines if the new hire verifications must be returned before processing the new application. BAM 807.

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. 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. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use

their best judgment. The Department is to send a case 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.

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 FAP application if the client complies within 60 days of the application date. BAM 115 and BAM 130.

In some situations, negative actions must be deleted. When the requirement that caused the negative action is met before the negative action effective date, the Department worker is to enter the information the client provided to meet the requirement and follow the additional steps outlined in the policy to delete a negative action. BAM 220.

In this case, the Claimant timely responded to the October 21, 2013, New Hire Client Notice, which had a due date of October 31, 2013. Specifically, on October 29, 2013, the Claimant returned the completed New Hire Employment Report and provided a net wages pay stub.

However, the Department utilizes gross income, not just net income, in determining FAP eligibility. See BEM 501 and 550. Therefore, on October 31, 2013, a Verification Checklist was issued to the Claimant stating wage verification was needed by the November 12, 2013 due date.

On November 13, 2013, a Notice of Case Action was issued to the Claimant stating the FAP case would close effective December 1, 2013 because verification of earned income was not returned. The Department did not receive the requested additional earned income verification from the Claimant until November 14, 2013.

The Claimant testified that she mailed the requested verification to the Department three or four days prior to the due date. The Claimant only lives four miles from the Department office. The Claimant asserted there could have been a problem with the postal service for it to arrive two days after the due date. The Claimant does not feel she should be penalized when she mailed the verification in early and it could have been a postal issue that caused them to be received two days late.

BAM 130 indicates that the case will be denied once the Verification Checklist due date has passed but also that eligibility will be determined based on the compliance date if the required verifications are returned. Additionally, BAM 220 addresses deleting a negative action when the requirement is met before the negative action effective date. The Department issued the November 13, 2013 Notice of Case Action because requested verification of earned income was not returned by the November 12, 2013 due date. However, the Department received the needed verification the next day,

November 14, 2013, which was well before the December 1, 2013 effective date for the FAP closure. Accordingly, the closure of the Claimant's FAP case cannot be upheld.

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

- acted in accordance with Department policy when it .
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's FAP case based on a failure to comply with verification requirements.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.**
- AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.

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 December 1, 2013 and re-determine eligibility in accordance with Department policy.
2. Issue the Claimant any supplement she may thereafter be due.

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

Date Signed: January 8, 2014

Date Mailed: January 9, 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

CL/hj

cc:

