

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13992
Issue No(s): 3004
Case No.: [REDACTED]
Hearing Date: January 7, 2014
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 three way telephone hearing was held on January 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's October 21, 2013 Food Assistance Program (FAP) application as withdrawn by the Claimant?

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 October 21, 2013, the Claimant applied for FAP.
2. The Department determined the Claimant did not qualify for expedited FAP at the time of application.
3. On October 23, 2013, a Verification Checklist was issued to the Claimant stating what proofs were needed by the November 4, 2013 due date.
4. On October 24, 2013, the Claimant submitted documentation to the Department.
5. On November 6, 2013, the Eligibility Specialist called the Claimant regarding submitted documentation that could not be accepted as verification.

6. On November 6, 2013, a Notice of Case Action was issued to the Claimant stating FAP was denied because the Claimant requested assistance be stopped.
7. On November 6, 2013, the Claimant re-applied for FAP at the local Department office.
8. November 15, 2013, the Claimant filed a Request for Hearing contesting the Department's action(s).

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.

If a FAP application is filed electronically after close of business (such as weekends, holidays, or after 5 p.m. EST on business days), the date of application is the following business day. BAM 110. Accordingly, the FAP application the Claimant filed electronically at 7:10 pm on Friday October 18, 2013 was entered as an October 21, 2013 FAP application. (Exhibit A, pages 1 and 7)

FAP applicant groups are entitled to expedited service if one of the following applies: (1) they have less than \$150 in monthly gross income and \$100 or less in liquid assets; (2) they are destitute migrant or seasonal farmworkers and have \$100 or less in liquid assets (refer to BEM 610); or (3) the group's combined gross income and liquid assets are less than its monthly rent and/or mortgage payments plus the Heat and Utility Standard, or Non-Heat Electric, Water and/or Sewer, Telephone, Cooking Fuel or Trash Removal standards. BAM 117. The Eligibility Specialist testified that at the time of the October 21, 2013 FAP application, the Claimant did not qualify for expedited FAP benefits under the first circumstance noting the gross household wages of \$745. There is insufficient evidence to establish whether or not the Claimant's FAP applicant group met either of the other criteria for expedited FAP.

The Department then continued processing the Claimant's FAP application to determine eligibility.

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. 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.

When an application is pending and additional application(s) are received prior to certification of the initial application, the Department is to: review the information for impact on eligibility and benefit level; ensure the case record is documented with the additional application(s) received and note the application(s) used to determine eligibility and/or benefit levels; and attach the additional application(s) to the initial application. BAM 110.

A person may withdraw an application at any time before it is disposed on Bridges. BAM 110.

The Eligibility Specialist testified that on October 23, 2013, an interview was completed with the Claimant and needed verifications were discussed. On October 23, 2013, a Verification Checklist was issued to the Claimant stating what proofs were needed by the November 4, 2013 due date. (Exhibit A, pages 9-10) On October 24, 2013, the Claimant submitted documentation to the Department. (Exhibit A, page 8) On November 6, 2013, the Eligibility Specialist called the Claimant regarding some of the submitted documentation that could not be accepted as verification. For example, the bank transaction history did not show the name of the bank or the name of the account holder. (Exhibit A, page 22) The Eligibility Specialist testified that the Claimant stated he needed emergency assistance. The Eligibility Specialist stated she explained that the Claimant could provide the requested verifications for her to continue processing the application or he could go to the local Department office with the verifications and re-apply requesting expedited benefits. The Eligibility Specialist testified and documented

that the Claimant chose to withdraw the pending application and re-apply at the local Department office. (Exhibit A, page 6) Accordingly, on November 6, 2013, a Notice of Case Action was issued to the Claimant stating FAP was denied because the Claimant requested assistance be stopped. (Exhibit A, pages 11-13) The Eligibility Specialist confirmed that the Claimant did re-apply on November 6, 2013 at the local Department office, that FAP application was approved, and the Claimant is receiving FAP benefits.

The Claimant testified that he did not intend to withdraw the October 21, 2013 FAP application. The Claimant asserted that the Department's documentation is not complete and accurate regarding when he provided verifications and his contacts with the Department. The Claimant stated he emailed the verifications to the Department on October 23, 2013. The Claimant stated the local Department office told him there was a virus problem with opening the email. The Claimant stated that on November 5, 2013, the local Department office told him they could not help him because the October 21, 2013 application was still pending. The Claimant stated that on November 6, 2013, the Eligibility Specialist told him to tell the local Department office they could process his FAP application. The Claimant asserts that he was not given a choice but to re-apply. However, the Claimant also testified that the Eligibility Specialist told him he could mail in the needed verifications. The Claimant is requesting the FAP benefits for the back period he would have been entitled to if the October 21, 2013 FAP application had been processed instead of denied as withdrawn.

The evidence in this case is consistent that the Claimant attempted to timely provide the requested verifications to the Department by email. It appears that initially the Department had a problem opening the emailed verifications. The Department must have found a way to open the emailed verifications because the Eligibility Specialist explained why some of the submitted documentation was not sufficient. At that time, additional verifications were still needed for the Department to make an eligibility determination for the October 21, 2013 FAP application. It is clear that the Claimant wanted FAP benefits as quickly as possible. The Eligibility Specialist credibly testified that the Claimant was given two options. The Claimant could have submitted the needed additional verifications to the Eligibility Specialist to continue with the October 21, 2013 FAP application or, instead, he could re-apply for FAP at the local Department office and again request expedited processing. This is consistent with the BAM 110 policy that additional applications are attached to the initial application and that a person can withdraw an application at any time. The evidence is consistent that both the Eligibility Specialist and the local Department office told the Claimant that the local office could not process a new expedited FAP application for him if the October 21, 2013 FAP application was still pending with the Eligibility Specialist. The evidence establishes that the Claimant chose to re-apply at the local Department office and was subsequently approved for FAP. Accordingly, the Department's determination to deny the October 21, 2013 FAP application as withdrawn by the Claimant must 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 denied the Claimant's October 21, 2013 FAP application as withdrawn by the Claimant.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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

Date Signed: _____

Date Mailed: _____

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

201413992/CL

P.O. Box 30639
Lansing, Michigan 48909-07322

CL/hj

cc:

