

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-15340
Issue No(s): 3002
Case No.: ██████████
Hearing Date: January 6, 2014
County: Wayne (57)

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 January 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Manager, and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective December 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. Claimant was an ongoing recipient of FAP benefits.
2. On September 18, 2013, the Department sent Claimant a Verification Checklist, which requested verification of his identity and it was due back by September 30, 2013. See Exhibit 1.

3. The Department did not receive verification of his identity timely.
4. On November 9, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective December 1, 2013, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1.
5. On November 22, 2013, Claimant filed a hearing request, protesting his FAP case closure. See 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 (October 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 requests. 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 the present case, Claimant was an ongoing recipient of FAP benefits. On September 18, 2013, the Department sent Claimant a Verification Checklist, which requested verification of his identity and it was due back by September 30, 2013. See Exhibit 1. The Department testified that Claimant failed to submit verification of his identity timely. Thus, on November 9, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective December 1, 2013, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1.

At the hearing, Claimant testified that he did not receive the VCL dated September 18, 2013. Claimant testified that he has had trouble with DHS correspondence in the past. Claimant testified he does not have issues in receiving third party correspondence. Also, Claimant testified that he was in the hospital from June 2013 to August 2, 2013.

The Department testified that it did not receive any returned mail or contact from the Claimant. Moreover, the Department sent the VCL via central print to the Claimant. See Correspondence History, Exhibit 1.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the above information, it is found that Claimant failed to rebut the presumption of proper mailing. The Department provided credible evidence and testimony that it properly sent the VCL to the Claimant. See Exhibit 1. Moreover, the Department did not receive any returned mail or contact from the Claimant regarding the verification requested.

Additionally, Claimant testified that he eventually submitted verification of his identity on two different occasions. First, Claimant testified that he submitted his driver's license and social security card in the middle of November 2013. Claimant could not recall a specific date. However, Claimant testified that he submitted the document at his local DHS office and signed the logbook. The Department reviewed Claimant's case file and discovered a copy of his driver's license and social security card; however, the document was not date stamped. This document was submitted as an exhibit. See Exhibit 1. The Department then retrieved the logbook during the hearing, however, no submission of the Claimant's signature was found for November 2013. Second, Claimant also submitted his driver's license on November 22, 2013. See Exhibit 1. This document appeared to be submitted with Claimant's hearing request. Nevertheless, this document was submitted after Claimant's negative action date of November 21, 2013. See BAM 220 (July 2013), p. 11.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 11. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 11. It is always the day before the negative action is effective. BAM 220, p. 11. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. BAM 220, p. 11. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, pp. 11-12.

If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the negative action. BAM 220, p. 12. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, pp. 12-13. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 13.

In the present case, Claimant's Request for a Hearing (Exhibit 1) stated that Claimant can submit a timely hearing request on or before November 20, 2013. BAM 220, p. 11. Thus, November 21, 2013, is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Claimant provided credible testimony that he submitted verification of his identity (driver's license and social security card) in the middle of November 2013. Even though the Department did not discover Claimant's submission in the logbook, it did discover a copy of the driver's license and social security card in his case file. Based on this information, it is reasonable to conclude that Claimant did submit such a document in the middle of November 2013, which would have been before the negative action date. Claimant's credibility was supported by the fact that the Department did discover a copy of his driver's license and social security card in his case file. It is the Department's obligation to date stamp the submitted documentation.

Based on the foregoing information and evidence, Claimant met the verification requirement before the November 21, 2013 negative action effect date. BAM 220, p. 12. Based on the Notice of Case Action and because the Claimant submitted the VCL requirements before the November 21, 2013 negative action date, the Department improperly closed Claimant's FAP benefits effective December 1, 2013, ongoing. The Department should have deleted the negative action and run his FAP eligibility. See BAM 220, pp. 12-13.

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 closed Claimant's FAP case effective December 1, 2013, ongoing.

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 December 1, 2013, ongoing;
2. Begin recalculating the FAP budget for December 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from December 1, 2013, ongoing; 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: January 14, 2014

Date Mailed: January 14, 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/cl

cc:

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