

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2014-15344
Issue No(s): 2000; 3002
Case No.: [REDACTED]
Hearing Date: January 6, 2014
County: Wayne (19)

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 [REDACTED] Assistant Payment Supervisor.

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. On October 17, 2013, Claimant applied for FAP benefits online.
2. On October 28, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested verification of her income and it was due back by November 7, 2013. Exhibit 1.
3. The Department did not receive the requested verifications.
4. On November 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective December 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.

5. On December 2, 2013, Claimant filed a hearing request, protesting her FAP case closure and Medical Assistance (MA) benefits. 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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

As a preliminary matter, Claimant also filed a hearing request in which she was protesting the closure of her MA benefits. See Exhibit 1. During the hearing, Claimant testified that she receives her MA benefits. Thus, shortly after commencement of the hearing, Claimant testified that she is no longer disputing her MA benefits. Thus, Claimant's MA hearing request is DISMISSED.

In the present case, Claimant originally submitted her FAP application online on October 17, 2013. On October 28, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested verification of her income and it was due back by November 7, 2013. Exhibit 1. Specifically, the VCL requested that the Claimant provide all check stubs from her employer from September through October 2013. See Exhibit 1. The Department testified that it did not receive the requested verifications. Thus, on November 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective December 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.

The Department verifies income at application and at redetermination. BEM 505 (July 2013), p. 13. The Department verifies changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. BEM 505, p. 13.

The Department verifies income that stopped within the 30 days prior to the application date or while the application is pending before certifying the EDG. BEM 505, p. 13. If eligibility fails due to lack of verification of stopped income, a client who reapplies, does not need to verify stopped income if it has been over 30 days. BEM 505, p. 13.

At the hearing, the Department testified that it erred in requesting the verification of her earned income. It was discovered during the hearing that Claimant's employment had ended on or around November/December of 2012. Claimant's income clearly ended more than 30 days after her FAP application. The Department acknowledged its error in requesting such verification.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective December 1, 2013, ongoing, in accordance with Department policy. The Department verifies income that stopped within the 30 days prior to the application date or while the application is pending before certifying the EDG. BEM 505, p. 13. However, Claimant's income had stopped more than 30 days prior to the application. The Department acknowledged its error in requesting such verification on October 28, 2013 because it was not necessary. Because the Department erred in requesting verification of Claimant's income, it improperly closed her FAP benefits effective December 1, 2013 based on her failure to comply with the verification requirements. BEM 505, p. 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 benefits 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.

IT IS ALSO ORDERED that Claimant's MA hearing request is DISMISSED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 10, 2014

Date Mailed: January 10, 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]
[REDACTED]
[REDACTED]