

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

IN THE MATTER OF:

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████████████████

Reg. No.: 2014-15770
Issue No.: 3004
Case No.: ██████████
Hearing Date: January 8, 2014
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
██████████

ISSUE

Did the Department properly process Claimant's application for Food Assistance Program (FAP) benefits?

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 applied for FAP benefits on several occasions beginning September 2, 2013.
2. On December 4, 2013, Claimant filed a request for hearing alleging that the Department had failed to process her applications.

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.

Department policy requires that the Department process an application for FAP benefits within 30 days of the date of application, except expedited FAP benefits must be made available within seven days of the date of application. BAM 115 (July 2013), p. 13. The Department must notify the client of the denial or approval of an FAP application. BAM 115, pp. 22-24.

In this case, the Department testified that it initially could find no evidence that Claimant had filed online FAP applications, but further research in its system under a different case number for Claimant showed that she had filed online FAP applications on September 2, 2013; October 17, 2013; and November 22, 2013. The Department also testified that Claimant had filed an application in December 2013. At the hearing, the Department presented a printout from its system showing that the September 3, 2013, application had been disposed and that the October 17, 2013, application was pending. An eligibility summary showed that FAP benefits were issued for September 2013 but the case closed effective October 1, 2013.

Claimant acknowledged receiving the \$342 FAP allotment for September 2013 but testified that she never received a Notice of Case Action approving her FAP application or a Notice informing her that her FAP case was closing. She testified that the Department had sent her a Verification Checklist when she applied in September, that she returned the requested documents by that due date, and that she was informed, despite timely turning in the documents, that she would have to reapply. Consequently, she submitted the October 17, 2013, application. When there was no response, she continued to file applications.

The Department was unable to provide any information regarding its actions concerning Claimant's September 2, 2013, FAP application. Although the Department assumed that the case was closed because verifications were not presented, it presented no evidence to support this position. Furthermore, despite the fact that Claimant alleged in her hearing request that her applications were not being processed, the Department failed to present a Notice of Case Action showing the Department's actions concerning Claimant's September 2, 2013, application, either showing an initial approval, presumably for expedited FAP benefits, or a subsequent closure of the case showing the reason the case was closed. The Department's failure to do so supports Claimant's position that she never received any Notices of Case Action from the Department concerning her FAP application.

In the absence of any evidence from the Department showing its response to Claimant's September 2, 2013, FAP application, 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's September 2, 2013, application.

DECISION AND ORDER

Accordingly, the Department's 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 and reprocess the September 2, 2013, FAP application;
2. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from September 2, 2013, ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 13, 2014

Date Mailed: January 13, 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

ACE/pf

cc:

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