

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201416704
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 10, 2014
County: Wayne (76)

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 February 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's friend. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case for failure to verify?

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 for herself.
2. On October 5, 2013, Claimant asked her Department worker to add her 21-year-old daughter to her FAP case.
3. Claimant's daughter is a college student who participates in a work study program.
4. On October 5, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting verification of school attendance by October 15, 2013.

5. Claimant timely responded to the VCL and included her daughter's paystub to establish that her daughter lived at her home.
6. On November 27, 2013, the Department sent Claimant a Notice of Case Action closing her FAP case effective December 1, 2013 because of failure to verify rent expenses and earned income.
7. On December 3, 2013, Claimant filed a request for hearing disputing the Department's closure of her FAP case.

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, when Claimant asked that her daughter, a college student, be added to her FAP case, the Department sent her an October 5, 2013 VCL asking for verification of school attendance. In her response, Claimant included one of her daughter's paystubs from her work study program with the address circled, which Claimant testified she included to verify that her daughter lived with her.

The Department testified that, because only one biweekly paystub was submitted, it requested a full 30-days of wages. Although the Department provided a printout from its system showing that there was a pending verification from Claimant's daughter for 30-days wages due on October 24, 2013, it did not provide a copy of the verification checklist to establish that one was properly addressed and sent to Claimant and asked for the same information indicated on its system. Claimant denied receiving any verification checklists other than the October 5, 2013 VCL she responded to. In the absence of any evidence that a verification checklist was sent to Claimant requesting her daughter's income verification, the Department did not act in accordance with Department policy when it closed Claimant's FAP case for failure to verify. See BAM 130 (July 2013), pp 3, 6 (requiring the Department to notify a client what verification is required, how to obtain it and the due date and allowing the Department to send a negative action notice only when the client indicates a refusal to provide verification or the time period given has elapsed and the client has not made a reasonable effort to provide it).

It is further noted that Claimant's daughter's income, which the Department does not dispute is from her work study program, is excluded from the FAP budget. BEM 501 (July 2013), p. 8. The Department is required to verify all **non-excluded** income. BEM 501 (July 2013), p. 9. Because the Department is not required to verify Claimant's daughter's work study income, it follows that it could not close Claimant's FAP case for failure to verify income that Claimant is not required to be verified.

While the November 27, 2013 Notice of Case Action also indicates that Claimant's FAP case was closed because her daughter failed to verify rent expenses, there was no evidence presented by the Department that the case closed due to failure to verify rent. Further, the evidence established that Claimant's daughter was living with Claimant, and the Department failed to present any evidence that Claimant had advised the Department that her daughter was paying any rent to her.

At the hearing, the Department presented evidence that it had agreed to reinstate Claimant's case to December 1, 2013 and to add Claimant's two adult daughters, who she identified as living with her in a November 26, 2013, State Emergency Relief application she filed, if Claimant responded to a verification checklist given to her on December 9, 2013 and explained her shelter expenses. Because these actions took place after Claimant's December 3, 2013, request for hearing, they are not considered in this Hearing Decision.


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 closed Claimant's FAP case effective December 1, 2013 for failure to verify.

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. Reinstate Claimant's FAP case effective December 1, 2013;
2. Reprocess Claimant's October 5, 2013, member add request;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from the effective date of the member add ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.


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

Date Signed: February 14, 2014

Date Mailed: February 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

ACE/tlf

cc:

