

**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.: 2014-16988
Issue No(s): 3002
Case No.: ██████████
Hearing Date: January 9, 2014
County: SSPC – East (98)

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 four-way hearing was held on January 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Also present was Claimant's interpreter, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Assistant Payment Supervisor.

ISSUE

Did the Department properly deny 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 November 4, 2013, Claimant applied online for FAP benefits.
2. On November 12, 2013, the Department conducted a telephone interview with the Claimant.
3. During the interview, Claimant stated she had a checking account, employment income, income from a donation, and a rent expense.
4. On November 12, 2013, the Department approved Claimant for expedited FAP benefits for 11/4/13 to 11/30/13 and mailed her a Notice of Case Action notifying her that she received \$170 for this time period. See Exhibit 1.

5. On November 12, 2013, the Department sent Claimant a Verification Checklist (VCL), Verification of Assets, and Shelter Verification and all forms were due back by November 22, 2013. See Exhibit 1.
6. On November 21, 2013, Claimant submitted verification of her assets and shelter expenses; however, she did not submit verification of her earned and unearned income. See Exhibit 1.
7. On December 2, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were denied effective December 1, 2013, ongoing, due to her failure to provide verification of her earned and unearned income. See Exhibit 1.
8. On December 9, 2013, Claimant filed a hearing request, protesting her FAP denial. 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.

The local office must assist clients who ask for help in completing forms (including the DCH-0373-D) or gathering verifications. BAM 105, p. 12. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105, p. 12.

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. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6.

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.

For FAP expedited service, Food Assistance groups that did not provide all required verifications will not be issued benefits for subsequent months until the FAP group provides the waived verification or completes a redetermination. BAM 117 (October 2013), p. 5. If waived verifications/actions are not met by the 10th day following the request (or by the extended date, if granted), allow the benefit period to expire at the end of the expedited month(s). BAM 117, p. 5.

In the present case, on November 4, 2013, Claimant applied online for FAP benefits. On November 12, 2013, the Department conducted a telephone interview with the Claimant. During the interview, the Department testified that Claimant stated she had a checking account, employment income, income from a donation, and a rent expense. On November 12, 2013, the Department approved Claimant for expedited FAP benefits for 11/4/13 to 11/30/13 and mailed her a Notice of Case Action notifying her that she received \$170 for this time period. See Exhibit 1. On November 12, 2013, the Department sent Claimant a VCL, Verification of Assets, and Shelter Verification and all forms were due back by November 22, 2013. See Exhibit 1. Specifically, the Department requested verification of Claimant's employment income (earned income), donation or contribution from an individual outside the group (unearned income), shelter expenses, and checking account. See Exhibit 1. On November 21, 2013, the Department testified it received verification of Claimant's assets and shelter expenses; however, it did not receive verification of her earned and unearned income. See Exhibit 1. On November 21, 2013, the Department testified that it attempted to contact the Claimant regarding the missing verifications; however, they were unsuccessful in reaching her. It should be noted that the Department's case comments do not indicate such a contact. See Case Comments, Exhibit 1.

Moreover, on December 2, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were denied effective December 1, 2013, ongoing, due to her failure to provide verification of her earned and unearned income. See Exhibit 1. Also, on December 6, 2013, Claimant reapplied for FAP benefits. See Exhibit 1. On January 7, 2014, the Department testified that it received verification of Claimant's unearned income; however, the Department stated this was related to Claimant's subsequent application. It should be noted that the Department testified it still did not receive verification of her earned income.

At the hearing, Claimant testified that she does have a language and medical barrier. Moreover, Claimant testified that her telephone interview was conducted and/or interpreted by her friend who speaks English. Claimant testified that her friend notified the Department during the telephone interview that her cousin donates money to her. Moreover, Claimant testified that she submitted all of her requested verifications on November 21, 2013, which included her earned income. Claimant testified that she only works one day a week.

Based on the foregoing information and evidence, the Department properly denied Claimant's FAP benefits effective December 1, 2013, ongoing, in accordance with Department policy. It is evident that Claimant submitted a majority of the requested

verifications on November 21, 2013. See Exhibit 1. However, the Department presented credible testimony and evidence that Claimant failed to submit verification of her earned and unearned income. The Department presented evidence of the verifications it received on November 21, 2013; however, Claimant did not submit any verifications of her earned and unearned income. Moreover, it is reasonable to conclude that Claimant is not fluent in English, however, the Department credibly testified that it attempted at a minimum to contact the Claimant on November 21, 2013 to inquire on the missing verifications. The Department, though, was unable to get a hold of the Claimant. Claimant acknowledged that she does have such unearned and earned income expenses. Ultimately, the Claimant must complete the necessary forms in determining her initial FAP eligibility. BAM 105, p. 6. Even though the Claimant eventually submitted verification of her unearned income on January 7, 2014, she still failed to submit verification of the earned income. Because the Claimant failed to comply with the verification requirements, the Department properly denied Claimant's FAP benefits effective December 1, 2013, ongoing, in accordance with Department policy. BAM 117, p. 5. and BAM 130, p. 6.

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 acted in accordance with Department policy when it properly denied Claimant's FAP benefits effective December 1, 2013, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED.



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]