

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22258
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: February 11, 2014
County: SSPC WEST

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 11, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payments Worker.

ISSUE

Did the Department properly deny Claimant's FAP application 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 applied for food assistance on November 18, 2013.
2. On November 26, 2013, the Department sent Claimant a verification checklist with a December 6, 2013 due date.
3. Before December 6, 2013, Claimant called his worker and informed the worker that he had called his bank and requested statements for his checking and savings, but such documents would likely arrive after the closure date.
4. The Worker did not testify. Claimant's sent various documents to the Department on or before December 6, 2013 to comply with the Verification Checklist.

5. However, Claimant did not send in his checking or saving statements by the due date.
6. On December 12, 2013, Claimant delivered his checking and savings statements to the Department.
7. The worker who testified during the hearing stated that the Department received Claimant's checking statement on December 12, 2013 but did not receive his savings statement until February 3, 2013.
8. The Department did not provide a copy of the intake log, and the Department's witness did not consult the log before the hearing.
9. The Department witness testified that if Claimant had sent in bank records on December 12, 2013, the Department would have determined benefits from the application date because closure had not been initiated as of December 12, 2013.
10. On December 17, 2013, the Department issued a Notice of Case Action, denying Claimant's FAP application effective December 17, 2013.
11. On January 9, 2014, the Department received Claimant's hearing request, which stated in part, "I fax all of my banking statement [sic] on 12-12-13."

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, The Department did not meet its burden of proof that it assisted Claimant in timely complying with the checklist as required by BAM 130. Claimant offered un rebutted testimony that he called his worker before the due date and told the worker that his bank statements were being sent in the mail and would be late. The worker did not rebut this testimony or explain whether Claimant was asked whether he had gone to the bank itself because the worker did not testify. Without a reasonable inquiry or suggestion, the Department has not shown that it complied with the requirements in BAM 130 to assist claimants with obtaining verifications. Further, BAM 130 page 6 requires negative action when the Claimant either refuses to comply by the due date or

has not made reasonable efforts to comply by the due date, and the Department has not shown that either occurred. It appears that the Department has all the information needed on the verification checklist at this time, in which case, it may be unnecessary to request additional material, but whether additional material is needed is left to the Department's discretion.

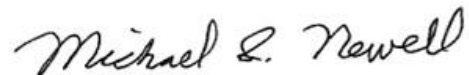
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP application.

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. Send Claimant a verification checklist if any other verifications are needed.
2. Reinstate or redetermine benefits from the closure date and provide any necessary retroactive or supplemental benefits that may be required by policy.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 21, 2014

Date Mailed: February 21, 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

MSN/las

cc:

