

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201423150
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 12, 2014
County: Wayne (19)

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 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's daughter and translator. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Assistance Payment Worker.

ISSUE

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

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.
2. On October 24, 2013, Claimant submitted her completed FAP and MA redetermination.
3. Claimant's FAP certification period expired on November 30, 2013.
4. Claimant was not issued FAP benefits for December 2013 ongoing until she reapplied in January 2014.

5. On January 13, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting a copy of her husband's October 25, 2013 paystub.
6. On January 21, 2014, Claimant filed a request for hearing contending that the Department closed her FAP case in December 2013 without reason.

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, in its hearing summary in response to Claimant's January 21, 2014 hearing request, the Department contended that Claimant's hearing request was premature because her FAP redetermination was processed on January 13, 2014 and her response to a January 13, 2014 VCL was not due until January 23, 2014, after the hearing request was filed. However, during the course of the hearing, the evidence established that, because Claimant's FAP certification period had expired on November 30, 2013, she had not received any FAP benefits since December 1, 2013 until she reapplied on January 17, 2014 and was approved. Furthermore, she testified that she had come to the local office around December 24, 2013 and was informed at that time that her FAP case had closed although the Department translator she spoke to could not explain why. Under the facts presented, the merits of Claimant's hearing request are considered.

A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210 (October 2013), p. 1. A FAP client must also complete a phone interview. BAM 210, p. 3. In order to receive uninterrupted benefits, the client must timely file the redetermination. BAM, p. 13. The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. BAM 210, p. 17. If timely redetermination procedures are met, but too late to meet the normal issuance date, the Department must issue benefits within five workdays. BAM 210, p. 17. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2.

In this case, the Department testified that Claimant submitted her completed redetermination on October 24, 2013, for a certification period that expired November 30, 2013. There was no evidence that Claimant's response was untimely.

The Department testified that Claimant's FAP case closed because she did not timely respond to the January 13, 2014 Verification Checklist (VCL) requesting Claimant's husband's October 25, 2013, paystub by January 23, 2014. While Department policy provides that verifications in connection with a redetermination must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time, it also provides that the verification checklist must be sent after the redetermination interview. BAM 210, p. 14.

In this case, even though Claimant timely submitted her completed redetermination on October 24, 2013, the Department testified that it did not process the redetermination until January 13, 2014, nearly 2 ½ months after the redetermination was submitted. It provided no explanation for the delay. It sent Claimant the January 13, 2014 VCL requesting a paystub for October 25, 2013, a document that was not even available when the redetermination was submitted on October 24, 2013. Further, the VCL indicates that it is to determine Claimant's ongoing eligibility for Medicaid (MA) and does not reference FAP, presumably because the FAP case had already been closed for over a month.


In this case, where Claimant's case closed effective November 30, 2013 despite the fact that she timely submitted her redetermination on October 24, 2013, where the Department did not process the redetermination until well after the case closed, and where the VCL requested does not reference the FAP program, the Department did not act in accordance with Department policy when it closed Claimant's FAP case.

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 the redetermination, requesting any necessary verifications;
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 decision.


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

Date Signed: February 18, 2014

Date Mailed: February 18, 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/tif

cc:

