

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201424142
Issue No(s): [REDACTED]
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Kent

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) eligibility on December 4, 2013?

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 13, 2013, Administrative Law Judge [REDACTED] conducted a hearing regarding closure of Claimant's Food Assistance Program (FAP). Testimony and physical evidence of a letter regarding Claimant's ability to work were received by the ALJ.
2. On November 15, 2013, Administrative Law Judge [REDACTED] issued a Decision and Order reversing the Department's action. The order stated that the Department was to "Provide the Claimant with a ten-day period to provide verification that she was physically unfit for work as of July 1, 2013" and "Initiate a determination of Claimant's eligibility for the Food Assistance Program (FAP) as of August 1, 2013."
3. On November 15, 2013, the Department sent Claimant a Verification Checklist (DHS Form 3503) with the verification due back on November 25, 2013.
4. On December 4, 2013, the Department had not received any additional medical verification. Claimant was sent a Benefit Notice Form (DHS-176) which stated Claimant had no FAP eligibility for August 2013.

5. On December 10, 2013, Claimant sent the DHS case worker an Email stating the Doctor was still out of the office. Claimant also stated she thought the letter submitted at the November 13, 2013 hearing was sufficient.
6. On December 11, 2013, Claimant submitted a request for hearing.
7. On December 12, 2013, the Department received a Medical Needs (DHS 54A) form which stated Claimant was unable to work from July 1, 2013 through September 25, 2013. The Kent County DHS Office wrote a ticket to supplement Claimant Food Assistance Program (FAP) benefits for August 2013 and September 1 & 2, 2013.
8. On December 18, 2013, Claimant signed a hearing request withdrawal based on the Kent County DHS Office's action of writing the ticket.
9. On December 23, 2013, the DHS Application Support denied the supplement based on the fact Claimant did not provide the required verification by the due date given on the Verification Checklist (DHS Form 3503).
10. On January 2, 2014, Claimant was sent a Benefit Notice Form (DHS-176) stating the FAP supplement was denied.
11. On January 21, 2014, Claimant submitted a request for hearing.

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.

In this case the Department had a letter signed by a PAC when the Verification Checklist (DHS Form 3503) was sent out. The local office sent out the November 15, 2013, Verification Checklist (DHS Form 3503) in order to assure compliance with the specific instructions in Administrative Law Judge Scully's Decision and Order. The DHS Application Support denied the supplement based on the fact that BRIDGES contained a due date and that due date was not marked as complied with by the local office. It is undisputed that Claimant was unable to provide any additional medical verification by the due date given on the November 15, 2013 Verification Checklist (DHS Form 3503).

Department of Human Services Bridges Administration Manual (BAM) 130 Verification and Collateral Contacts (2013) contains guidance under timeliness of verifications on page 6. For Food Assistance Program (FAP) verifications it states a negative action

notice should be sent when the client indicates refusal to provide verification or the time period has elapsed and the client has not made a reasonable effort to provide it.

Department of Human Services Bridges Eligibility Manual (BEM) 230B Employment-Related Activities: FAP (2013) provides verification criteria for deferrals due to disability on pages 4 & 5. "Verify a reason for deferral only if it is not obvious and the information provided is questionable (unclear, inconsistent or incomplete). Sources that may be used to verify questionable information are: . . . Statement from an M.D./D.O./ P.A that the person is unable to work."

Department policy shows that the letter provided for the November 13, 2013 hearing was sufficient to verify Claimant's inability to work during the time period at issue. For that reason the December 4, 2013 determination was invalid.

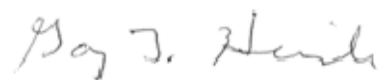
Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it made the December 4, 2013 determination that Claimant was not eligible for Food Assistance Program (FAP) benefits from August 1, 2013 through September 2, 2013.

DECISION AND ORDER

Accordingly, the Department's December 4, 2013 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. Initiate a determination of Claimant's eligibility for Food Assistance Program (FAP) benefits as of August 1, 2013 in accordance with Department policy.



Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 02/24/2014

Date Mailed: 02/25/2014

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

GFH/sw

cc:

