

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-27285
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: March 13, 2014
County: SSPC-West

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 March 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her Authorized Hearing Representative (AHR), [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist (ES), [REDACTED].

ISSUE

Did the Department properly close Claimant's case for:

- | | |
|--------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 received: FAP benefits.
2. On February 1, 2014, the Department closed Claimant's case due to the Claimant's failure to submit the required verification.
3. On February 13, 2014, the Department sent Claimant its decision.

4. On February 13, 2014, Claimant filed a hearing request, protesting the Department's actions.

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), and Department of Human Services Reference Tables Manual (RFT).

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 Claimant's AHR did not contest that the Claimant did not return the required verification. The Claimant's AHR testified that she and the Claimant had questions regarding completing the [REDACTED] form because the Claimant was no longer [REDACTED]. The Claimant's AHR testified that she telephoned the Claimant's ES several times to ask her questions and she received no return phone call. Indeed, the Claimant's AHR testified that she not only left messages for the Claimant's ES, but she also left messages for the local office supervisor. The Department's ES present at the hearing was not the worker who took action in the Claimant's case. She could therefore not address any of the Claimant's AHR's assertions because she testified that she had no personal knowledge of whether the worker who took the action ever received the telephone calls or messages.

Bridges Administrative Manual (BAM) 130 pp. 2, 3, provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using a DHS-3503, Verification Checklist to request verification. In this case, the Department did just that. The Claimant must obtain required verification, but the Department's worker must assist if they need and request help. If neither the Claimant nor the Department's worker can obtain verification despite a reasonable effort, the Department's worker is to use the best available information. BAM 130 (2012) p. 5, provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Claimant indicates a refusal to provide a verification, or when the time period given has elapsed and the Claimant has not made a reasonable effort to provide it.

In this case, the Administrative Law Judge determines that the time period to submit the verification had lapsed, but that the Claimant was making a reasonable effort to provide the verification by telephoning the Department's ES to inquire what would be acceptable verification of self-employment, (i.e., is it appropriate for the Claimant to complete the [REDACTED] verification form herself?) Departmental policy requires that, if the Claimant's AHR needs and request assistance, the Department personnel are required to provide help. If the Claimant's AHR's messages are not returned, the Department is then unaware of the Claimant's AHR's need for assistance and can then likely not

provide such assistance. The Administrative Law Judge concludes that when the Department took action to close the Claimant's FAP case, the Department was not acting in accordance with Departmental policy.

The Administrative Law Judge, based upon 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 took action to close the 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. Re-determine the Claimant's eligibility for FAP back to February 1, 2014, and
2. Issue the Claimant any supplement that she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/20/14

Date Mailed: 3/21/14

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 Claimant;
- 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

SEH/tb

cc:

