

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-29860
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: March 26, 2014
County: Macomb #20

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 March 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES and [REDACTED] Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's FAP benefits?

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 January 31, 2014, Claimant submitted a redetermination for benefits that indicated she had an income source of "It works" and stated that she only received income if someone ordered from her website. (Exhibit 1).
2. The Department's hearing summary states, "On redetermination form, client stated that she works at It Works.
3. Claimant did not state that she worked at "It Works" on the redetermination form, however.
4. On February 5, 2014, the Department sent Claimant a Verification Checklist (VCL) due February 18, 2014.
5. The VCL required Claimant to have her "employer" fill out an employment verification form.

6. Claimant called her worker on February 14, 2014 and left a message that she was not employed by It Works but was a self-employed, independent contractor.
7. Claimant filled out the employment verification herself and wrote that she was self-employed on it. (Exhibit 2).
8. On February 19, 2014, the Department notified Claimant that it was closing her FAP benefits effective March 1, 2014 for failure to verify.

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, BAM 130 directs the department to assist the claimant in providing the necessary information. Claimant indicated on the phone on February 14, 2014 that she was self employed and in writing on 2/14/14 (Exhibit 2). The worker should have contacted Claimant to assist Claimant in providing the necessary paperwork, as required by BAM 130, in light of Claimant's communications.

The Department took a different position during the hearing than what it stated on the hearing summary. The hearing summary stated that Claimant wrote on the redetermination that she worked at It Works, which Claimant did not write on the redetermination. The worker testified that Claimant said she was employed by It Works during a phone interview. Whether Claimant said this or not is immaterial because Claimant attempted to clear up the misunderstanding timely by phone and in writing.

When asked why the Department did not follow up with Claimant after she informed the Department that she was self-employed before the due date, the worker answered that she had sent the employment verification form based on what Claimant said during the interview and would have taken other action if Claimant had indicated that she was self-employed during the interview. The Department closed Claimant's claim for failure to verify and not for a misunderstanding during the phone interview, which Claimant attempted to clear up with a phone call and in writing before her due date. The Department's position in this case is essentially that because of what Claimant allegedly said during the interview, she had to have her "employer" fill out the employment form regardless of whether she was employed or self-employed. This is not a logical position and penalizes Claimant for what was allegedly said during the interview, while calling

the closure reason "failure to verify." Claimant made reasonable efforts to comply with the verification checklist.

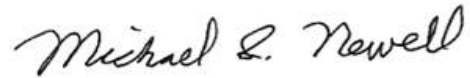
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP case.

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 benefits to the closure date and redetermine eligibility.
2. Provide and retroactive or supplemental benefits as may be required by law and policy.



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

Date Signed: April 4, 2014

Date Mailed: April 4, 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:

