

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2014-30020
Issue No(s): 3011
Case No.: ██████████
Hearing Date: March 27, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (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. Claimant applied for FAP benefits on December 18, 2013.
2. The Department denied Claimant's FAP application due to noncooperation in child support.
3. Claimant was in cooperation with child support, effective November 1, 2012.
4. Claimant requested a hearing on February 27, 2014.

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.

Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. BEM 255.

In the present case, the Department denied Claimant's application for FAP benefits, in part, due to Claimant's alleged failure to cooperate in child support matters. However, Claimant was in fact found to be in cooperation with child support as of November 1, 2012. Therefore, the Department was not correct in denying Claimant's FAP application. The Department argues that Claimant was denied FAP benefits for other reasons as well, but the Department presented no supporting documentation to substantiate the other reasons for denial.

The Department representative indicated at the hearing that she did not believe that Claimant's approved FAP benefits were affected by child support sanction constraints. However, the documents submitted by the Department did not prove or disprove this belief. Therefore, the Department should recalculate Claimant's approved FAP benefits.

It is noted that Claimant requested relief for application denials made prior to December 18, 2013. However, this Administrative Law Judge has jurisdiction to hear matters only within 90 days of the Notice of Case Action being issued to Claimant. Claimant submitted an application for FAP benefits on November 7, 2013 and she did not claim that the Notice of Case Action was issued within 90 calendar days prior to her request for hearing. Claimant's request for hearing was received by the Department on February 27, 2014.

The client or authorized hearing representative has 90
calendar days from the date of the written notice of case

action to request a hearing. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

BAM 600 P.5

The Administrative Law Judge finds jurisdiction with respect to the December 18, 2013 application for FAP benefits , but not with respect to the November 7, 2013 application for FAP benefits.

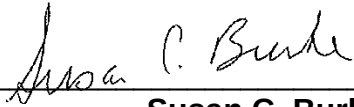
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP application of December 18, 2013 and when it calculated Claimant's FAP benefits thereafter.

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. Remove the child support sanction from Claimant's case, effective November 1, 2012.
2. Re-register and reprocess Claimant's FAP application of December 18, 2013.
3. Recalculate Claimant's FAP benefits, December 18, 2013 and ongoing.
4. Issue FAP supplements for any missed payment, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 28, 2014

Date Mailed: March 28, 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

SCB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]