

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-32136
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: April 10, 2014
County: Jackson

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 April 10, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED] and her mother, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Financial Independence Manager [REDACTED] and Financial Independence Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's 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 was an on-going FAP recipient.
2. The Department verified through an investigation by the Office of Inspector General (OIG) that Claimant was living with her mother.
3. Claimant is under 22 years of age.
4. On February 27, 2014 the Department mailed to Claimant a Verification Checklist (VCL) (Exhibit 1 Pages 1-2) which Claimant was to respond to by March 10, 2014.
5. On March 10, 2014, Claimant requested a hearing.
6. In a Notice of Case Action (NCA) dated March 11, 2014 (Exhibit 1 Pages 7-8), Claimant was notified that her FAP was closed because she did not respond fully to the VCL.

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 cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Verification Checklist was mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond by the deadline.

Claimant is not yet 22 years old. Per BEM 212 p. 1 (2/1/14), “Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group.” Claimant’s mother did not want to provide the Department with information regarding her personal matters. Claimant stated in her Hearing Request that her mother “is not giving any permission to use her income/information. She has a payee to take care of her business. We live together. I don’t live with her.” Claimant and her mother both testified that Claimant had to have her name on the lease with her mother in order to get aid from a private agency, yet both testified that Claimant was not living there when the

lease was signed. They eventually conceded that they considered the apartment to be Claimant's residence when it was beneficial to either – or both – of them, but they did not consider the apartment to be her residence when one or both of them would benefit if Claimant were living somewhere else. In any case, both Claimant and her mother agreed that Claimant had been living there since mid-February, which is the time in question. Because they both live together and Claimant is not yet 22, the two women are mandatory members of a group, and the mother was obligated to provide information in response to the VCL. That information was not provided.

The Claimant has not established that she made a reasonable effort to provide the necessary verification within the prescribed time frame. Because she did not comply by timely providing her verification, the Department properly closed her 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 acted in accordance with Department policy when it closed Claimant's FAP.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 11, 2014

Date Mailed: April 11, 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

DJT/las

cc:

