

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-32702
Issue No(s): 3003; 5002
Case No.: ██████████
Hearing Date: April 16, 2014
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████
██████████

ISSUES

1. Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective February 28, 2014, ongoing?
2. Did the Department properly deny Claimant's State Emergency Relief (SER) application for non-heat electricity and heat effective March 14, 2014?

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 ongoing recipient of FAP benefits. See Exhibit 1.
2. On January 27, 2014, Claimant submitted her Semi-Annual Contact Report (semi-annual) with several attachments. See Exhibit 2.
3. On the semi-annual, it stated that Claimant must report the form with proof of changes by February 1, 2014, or her FAP case would close effective February 28, 2014. See Exhibit 1.

4. On February 21, 2014, the Department sent Claimant a Verification Checklist (VCL) and Verification of Employments, which requested verification of Claimant's employment and loss of employment regarding her additional household member. See Exhibit 1. The forms were due back by March 3, 2014. See Exhibit 1.
5. Effective February 28, 2014, Claimant's FAP benefits closed due to the failure to comply with the verification requirements. See Exhibits 1 and 2.
6. On February 28, 2014, Claimant applied for SER assistance with non-heat electricity and heat.
7. On March 10, 2014, the Department sent Claimant a SER Verification Checklist, which requested verification of Claimant's employment. See Exhibit 1. The forms were due back by March 17, 2014. See Exhibit 1.
8. On March 14, 2014, the Department sent Claimant a SER Decision Notice, which denied Claimant's non-heat electricity and heat SER request due her failure to comply with the verification requirements. See Exhibit 1.
9. On March 18, 2014, Claimant filed a hearing request, protesting the FAP closure and SER denial. See Exhibit 1.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

FAP Benefits

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2014), p. 7. This includes completion of necessary forms. BAM 105, p. 7.

The semi-annual (DHS-1046) is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210 (October 2013), p. 9. The semi-annual contact report must be recorded, data collection updated and EDBC results certified by the Department by the last day of the sixth month of the benefit period to affect benefits no later than the seventh month. BAM 210, p. 9. The contact is met by receipt of a completed DHS-1046 and required verifications. BAM 210, p. 9.

If the DHS-1046 is not logged in by the 10th day of the sixth month, the Department will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. BAM 210, p. 11. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month, or the case will close. BAM 210, p. 11. If the client fails to return a complete DHS-1046 by the last day of the sixth month, the Department will automatically close the case. BAM 210, p. 11.

In this case, Claimant was an ongoing recipient of FAP benefits. See Exhibit 1. On January 27, 2014, Claimant submitted her semi-annual with several attachments. See Exhibit 2. On the semi-annual, it stated that Claimant must report the form with proof of changes by February 1, 2014, or her FAP case would close effective February 28, 2014. See Exhibit 1. On February 21, 2014, the Department sent Claimant a VCL and Verification of Employments, which requested verification of Claimant's employment and loss of employment regarding her additional household member. See Exhibit 1. The forms were due back by March 3, 2014. See Exhibit 1. It should be noted that the verification of loss of employment is not at issue in this case.

At the hearing, the Department testified that Claimant completed the employment verification by herself and returned it to the Department. On March 3, 2014, the Department testified that it contacted Claimant and informed her that the verification needed to be completed by her employer. See Exhibit 1. Moreover, the Department testified that Claimant requested another copy and a form was sent to her. The Department testified that it never received the verification and her benefits were closed effective February 28, 2014.

Claimant testified that she submitted the verification requested. Claimant testified that she had two employers. First, Claimant testified that she worked for the public school district. Second, Claimant testified that she worked for another employer in-between the public school holidays and/or breaks. The verification of employment at issue in this case was the second employer. A review of the semi-annual only discovered submission of the public school employment. See Exhibit 1. However, Claimant testified, throughout the hearing, that she submitted verification of the second employer (i.e., pay stubs) on multiple dates. It should be noted that Claimant testified that she submitted the pay stubs; however, they were dated back to 2013 because that was the last time she received such earnings. Claimant provided such pay stubs as an exhibit. See Exhibit A. The Department did not dispute that it had such pay stubs dated backing to 2013; however, it needed updated employment earnings.

Additionally, Claimant testified that she submitted pay stubs from February 2013 on February 23, 2014. As stated previously, Claimant testified that she only worked at her second employer in-between the public school breaks. Thus, Claimant inferred she was only paid sporadically for her second employment. Claimant also testified that she went to her employer and believed that it would be faxed to the Department by her employer. However, the Department testified that it never received a fax from the employer.

Finally, Claimant testified that she did receive an updated pay stub for her second employer in February 2014. Claimant testified that she submitted this pay stub on February 24, 2014. During the hearing, the Department retrieved the log book; however, no submission was discovered for this date. Claimant also provided as evidence the updated pay stub (dated February 23, 2014) as an exhibit. See Exhibit A. Ultimately, the Department testified that it never received the updated earnings. The Department acknowledged it received the older paystubs (pay dates in 2013) on February 28, 2014, and March 7, 2014. On the other hand, Claimant testified that she submitted the updated earnings on February 24, 2014, and on two subsequent days in March 2014.

Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14.

The Department sends 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. BAM 130 (January 2014), p. 6.

The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, it uses the best available information. BAM 130, p. 3. If no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective February 28, 2014, ongoing. The evidence presented that Claimant made a reasonable effort to provide the verifications before the time period given had elapsed. Even though the logbook did not record any submission, Claimant credibly testified that she submitted both her 2013 and 2014 pay stubs on multiple occasions. Claimant's credibility is supported by the fact that she submitted her pay stub as an exhibit (pay date of February 23, 2014), which was the day before her alleged submission on February 24, 2014. See Exhibit A. Moreover, Claimant testified that she submitted prior pay stubs on February 23, 2013; this indicated a reasonable effort to provide the requested documents. Furthermore, Claimant's reasonable effort occurred before the time period elapsed.

Because Claimant made a reasonable effort to provide the employment verifications before the time period had elapsed, the Department did not act in accordance with Department policy when it closed Claimant's FAP benefits effective February 28, 2014. BAM 130, pp. 3 and 6.

SER Application

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (October 2013), p. 1.

On February 28, 2014, Claimant applied for SER assistance with non-heat electricity and heat. On March 10, 2014, the Department sent Claimant a SER Verification Checklist, which requested verification of Claimant's employment. See Exhibit 1. The forms were due back by March 17, 2014. See Exhibit 1. The Department testified that the requested verifications regarded the same employer as discussed above in the FAP analysis. The Department testified that it never received the requested verifications. Thus, on March 14, 2014, the Department sent Claimant a SER Decision Notice, which denied Claimant's non-heat electricity (\$29.24) and heat (\$303.48) SER request due her failure to comply with the verification requirements. See Exhibit 1.

As stated previously, Claimant testified that she submitted the employment verifications in February 2014. Moreover, Claimant testified that she submitted the verifications on March 6 and 13, 2014. The Department, again, testified it did not have the updated verifications regarding the employer.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2013), p. 6. The due date is eight calendar days beginning with the date of application. ERM 103, p. 6. The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6. The client must make a reasonable effort to obtain required verifications. ERM 103, p. 6. The specialist must assist if the applicant needs and requests help. ERM 103, p. 6. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, the Department uses the best available information. ERM 103, p. 6. If no evidence is available, the specialist must use their best judgment. ERM 103, p. 6.

Based on the foregoing information and evidence, the Department improperly denied Claimant's SER application effective March 14, 2014.

First, the Department failed to give Claimant the appropriate amount of time to submit the verifications. The SER verification deadline was March 17, 2014. See Exhibit 1. However, the Department denied Claimant's SER application effective March 14, 2014. See Exhibit 1. Claimant's application was improperly denied before the SER due date. As such, the Department will re-register the SER application. ERM 103, p. 6.

Second, as stated above, the SER denial reason was the same as the FAP case closure in which the Department alleged it did not receive updated verifications for her second employer. However, the evidence presented that Claimant made a reasonable effort to provide the verifications before the time period given had elapsed. Claimant credibly testified that she submitted the updated verifications on multiple occasions (February 24, 2014; March 6, 2014; and March 13, 2014). Claimant's credibility is

supported by the fact that she submitted her pay stub as an exhibit (dated February 23, 2014), which was the day before her alleged submission on February 24, 2014. See Exhibit A.

Based on the above reasons, the Department did not act in accordance with Department policy when it denied Claimant's SER application for non-heat electricity and heat effective March 14, 2014. ERM 103, p. 6.


DECISION AND ORDER

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 (i) improperly closed Claimant's FAP benefits effective February 28, 2014, ongoing; and (ii) improperly denied Claimant's SER application for non-heat electricity and heat effective March 14, 2014.

Accordingly, the Department's FAP and SER decisions are 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 Claimant's FAP case as of February 28, 2014;
2. Begin recalculating the FAP budget for February 28, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from February 28, 2014, ongoing;
4. Initiate re-registration and processing of Claimant's SER application for non-heat electricity and heat dated February 28, 2014, in accordance with Department policy and as the circumstances existed at the time of application;
5. Begin issuing supplements to Claimant for any SER benefits she was eligible to receive but did not from the date of application; and
6. Notify Claimant in writing of its FAP and SER decisions in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 22, 2014

Date Mailed: April 22, 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

EJF/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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