

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

IN THE MATTER OF:



Reg. No.: 2014-5490
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 13, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 13, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) eligibility due to Claimant's failure to verify income.

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 an unspecified date, Claimant applied for FAP benefits.
2. Claimant's application listed that she received ongoing employment income.
3. On an unspecified date, DHS approved Claimant for expedited FAP benefits while awaiting verifications in order to process ongoing FAP eligibility.
4. On [REDACTED]/13, DHS mailed Claimant a Verification Checklist (VCL) (Exhibits 1-2) requesting the following proofs: 30 days of employment income, rent and stopped employment income.

5. The VCL due date was ■■■/13.
6. On ■■■/13, Claimant faxed the requested proofs to DHS.
7. On ■■■/13, DHS mailed a Notice of Case Action (Exhibits 3-4) informing Claimant of a termination of FAP eligibility, effective ■■■/2013, due to an alleged failure by Claimant to verify rent, income and stopped income.
8. On ■■■/13, Claimant requested a hearing to dispute the denial.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FAP benefit termination following the processing of expedited FAP benefits. It was not disputed that the termination was based on alleged Claimant failures to verify rent, stopped employment income and ongoing employment income.

DHS properly conceded that a failure to verify rent is not a basis to terminate eligibility (see BEM 554). DHS also properly conceded that DHS has no basis in policy to request an employment income stoppage occurring several months prior to the application date (see BEM 505). Thus, DHS is left with a failure to verify ongoing employment income as the only potential basis to justify Claimant's FAP benefit eligibility termination.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2013), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2.

It was not disputed that DHS mailed Claimant a VCL giving Claimant until ■■■/13 to submit proof of income. Claimant's DHS specialist denied receiving any documents from Claimant.

Claimant testified that she faxed proof of rent and employment income to DHS on ■■■/13. To support her testimony, Claimant brought a fax confirmation to the hearing. DHS examined the fax confirmation and agreed that the document appeared to confirm a 6 page fax to the DHS office on ■■■/13. Claimant also brought the requested

verifications to the hearing. It is found that Claimant complied with the VCL requesting proof of Claimant's income and rent.

For FAP benefits, DHS is to 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.

Id., p. 5.

Based on Claimant's compliance with the DHS request for income, it is found that DHS improperly took a negative action. Accordingly, the FAP benefit termination was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefit eligibility. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's FAP eligibility, effective ■/2013, subject to the finding that Claimant timely submitted proof of rent and ongoing employment income; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/22/2013

Date Mailed: 11/22/2013

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

CG/hw

cc:

