

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

IN THE MATTER OF:

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

Reg. No.: 14-013925
Issue No.: 3001
Case No.: ██████████
Hearing Date: December 03, 2014
County: Wayne-District 31

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 December 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

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.
2. On September 17, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting that she submit proof of ██████████ employment and income by September 29, 2014. (Exhibit 1)
3. On September 30, 2014, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2014, her FAP case would be closing on the basis that she failed to submit requested verifications. (Exhibit 2)
4. On October 8, 2014, Claimant submitted a hearing request disputing the Department's actions.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, FAP group composition is established by determining all of the following: who lives together; the relationships of the people who live together; whether the people living together purchase and prepare food together or separately; and whether the person resides in an eligible living situation. BEM 212 (July 2014), p. 1. Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area such as an entrance or hallway or non-living area such as a laundry room are not considered living together. BEM 212, p. 3.

In this case, the Department testified that a FEE Investigation revealed that [REDACTED] was living with Claimant in her home, as he was using Claimant's home address for mailing purposes. The Department testified that [REDACTED] had a vehicle registered under his name as well as an expired driver license listing Claimant's address as a mailing address. The Department stated that as a result of the FEE Investigation, it believed that [REDACTED] should be included as a group member on Claimant's FAP case and requested that Claimant submit proof of his employment and income. (Exhibit 1). The Department stated although it received communications from Claimant informing the Department that [REDACTED] was not living in the home, because it did not receive the requested verifications by the due date, it sent Claimant a Notice of Case Action informing her of the FAP case closure effective November 1, 2014. (Exhibit 2).

At the hearing, Claimant testified that [REDACTED] is the father of her youngest child. Claimant stated that she and [REDACTED] purchased a home together in 2010 and that they lived together until the summer of 2011. Claimant credibly testified that [REDACTED] does not live in the home with her and her two children and that he sometimes still receives some mail at her home address. Claimant stated that she spoke with [REDACTED] and he indicated he would have his address changed on his driver license. Claimant testified that the FEE Investigator did not come into her home during the course of his investigation to determine if there was evidence of [REDACTED] presence in the home and that he only asked her questions from outside.

Under the facts in this case, Claimant provided sufficient evidence to establish that she and [REDACTED] do not live together, and that his absence is not considered temporary. BEM 212, p. 3.

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 on the basis that she failed to provide verification of employment and income of [REDACTED].

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 Claimant's FAP case effective November 1, 2014;
2. Remove [REDACTED] from Claimant's FAP group; and
3. Issue FAP supplements to Claimant from November 1, 2014, ongoing, in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/5/2014**

Date Mailed: **12/5/2014**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

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