

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

IN THE MATTER OF:



Reg. No.: 14-018552
Issue No.: 3002, 5002
Case No.: [REDACTED]
Hearing Date: January 22, 2015
County: Oakland-District 3

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on January 22, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny the Claimant's State Emergency Relief (SER) application and close his Food Assistance Program (FAP) benefits for failure to provide the Department with information necessary to determine his eligibility to receive 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. The Claimant was an ongoing Food Assistance Program (FAP) recipient.
2. On November 7, 2014, the Claimant applied for State Emergency Relief (SER) benefits.
3. On November 12, 2014, the Department sent the Claimant a SER Verification Checklist (DHS-3503-SER) requesting verification of a bank account by November 19, 2014.
4. On November 20, 2014, the Department notified the Claimant that it had denied his State Emergency Relief (SER) application and would close his Food Assistance Program (FAP) benefits.
5. On November 24, 2014, the Department received the Claimant's request for a hearing.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2014), p 5.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (October 1, 2014), pp 1-9.

The client must obtain the required verification, but the Department must provide assistance upon request. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department will use the best available information and if no evidence is available, use its best judgment. BAM 130, p3.

In this case, the Claimant was an ongoing Food Assistance Program (FAP) recipient when he applied for State Emergency Relief (SER) benefits. On November 12, 2014, the Department sent the Claimant a SER Verification Checklist (DHS-3503-SER). The Department requested that the Claimant provide verification of a bank account because his countable assets are an eligibility factor to receive State Emergency Relief (SER) benefits.

The Claimant reported to the Department that he was having difficulty obtaining verification of a bank account. The Claimant's caseworker attempted to assist the Claimant with obtaining this information by making a collateral contact with the Claimant's bank. The Department's witness testified that he contacted the Claimant's bank but that the bank refused to provide any information and terminated the phone call.

On November 20, 2014, the Department denied the Claimant's State Emergency Relief (SER) application and closed his Food Assistance Program (FAP) benefits for unverified assets. Before November 20, 2014, the Claimant was eligible to receive Food Assistance Program (FAP) benefits and there was no reason to suspect that the Claimant's countable assets might affect his entitlement to receive Food Assistance Program (FAP) assistance.

Although the Claimant failed to provide current verification documentation of a bank account, the Department had recently obtained satisfactory information about this bank account that was used to determine the Claimant's eligibility for continuing Food Assistance Program (FAP) benefits. Department policy allows its employees to apply some discretion when determining whether the best available information contains sufficient information to verify a client's eligibility to receive benefits. In this case, there was information concerning the Claimant's bank account available to the Department, and no evidence was presented on the record that this available information was insufficient to determine his eligibility for State Emergency Relief (SER) benefits or continuing Food Assistance Program (FAP) benefits.

This Administrative Law Judge finds that the Claimant made a reasonable effort to provide the Department with the information necessary to process his State Emergency Relief (SER) application and determine his eligibility for continuing Food Assistance Program (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 did not act in accordance with Department policy when it denied the Claimant's November 7, 2014, State Emergency Relief (SER) application and closed his Food Assistance Program (FAP) benefits.

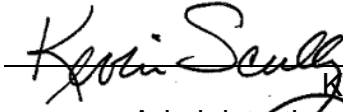
DECISION AND ORDER

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. Reprocess the Claimant's November 7, 2014, State Emergency Relief (SER) using the best information available to determine his eligibility for benefits.
2. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) benefits as of December 1, 2014.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.

4. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **1/23/2015**

Date Mailed: **1/23/2015**

KS/las

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 48909-07322

cc:

