

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

IN THE MATTER OF:

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Reg. No.: 14-016606
Issue No.: 3001
Case No.: ██████████
Hearing Date: February 05, 2015
County: Wayne-District 57

ADMINISTRATIVE LAW JUDGE: Alice Elkin

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, an in-person hearing was held on February 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████ ██████, Family Independence Manager.

ISSUE

Did the Department properly implement the Hearing Decision issued on May 16, 2014 and 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. In connection with a FAP redetermination for June 2014, Claimant submitted a completed redetermination along with proof of her monthly mortgage payments.
3. On May 14, 2014, a hearing was held before Administrative Law Judge (ALJ) ██████ concerning Claimant's FAP case.
4. In a Hearing Decision issued on May 16, 2014, ALJ ██████ concluded that the Department had failed to notify Claimant that it did not have verification of her shelter expenses and she was required to provide such verification. ALJ ██████

ordered the Department to send Claimant a verification checklist requesting proof of Claimant's mortgage expenses, taxes and insurance.

5. On May 14, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting verification of home insurance by May 27, 2014.
6. On May 14, 2014, Claimant submitted another copy of her mortgage statement to the Department.
7. On May 31, 2014, Claimant's FAP case closed.
8. On September 6, 2014, the Department sent Claimant a Notice of Case Action advising her that her case had closed effective May 31, 2014.
9. On November 17, 2014, Claimant filed a request for hearing 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.

Claimant requested a hearing to dispute the closure of her FAP case effective May 31, 2014. It is noted that the Department did not provide a copy of the September 6, 2014 Notice of Case Action concerning the closure of Claimant's FAP case into evidence with its hearing packet to establish the reason for the Department's actions. The Department testified that the closure was due to Claimant's failure to verify. Although the Department indicated in its hearing summary that it had concerns regarding Claimant's lack of income to pay for her expenses and that she had family contributions to assist her with her expenses, there was no evidence presented that it ever requested verification of any unearned income in the form of contributions by family or friends or that Claimant failed to provide any requested information. See BEM 503 (January 2014), p. 10. Similarly, although the Department indicated in its hearing summary that Claimant failed to verify that she was no longer a student, the evidence at the hearing established that a hearing was held on May 14, 2014 concerning Claimant's FAP case and review of the Hearing Decision issued on May 16, 2014 concerning that hearing.

shows that Claimant responded to prior VCLs sent to her by the Department concerning her FAP case and had failed only to provide verification of shelter expenses. Therefore, the only issue considered in this Hearing Decision is whether the Department properly implemented the May 16, 2014 Hearing Decision and closed Claimant's FAP case due to failure to verify shelter expenses.

In the May 16, 2014 Hearing Decision, the ALJ ordered the Department to issue a Verification Checklist to Claimant to verify her mortgage expenses, taxes and insurance. On May 14, 2014, the Department sent Claimant a VCL requesting verification of "home insurance."

As a preliminary matter, it is noted that Department policy provides that, where a client fails to verify shelter expenses, the Department must continue to process the client's FAP eligibility but exclude the unverified shelter expenses from the calculation of the client's FAP eligibility and allotment amount. BEM 554 (May 2014), p. 14. Therefore, to the extent the Department closed Claimant's FAP case due to failure to verify shelter expenses, the Department did not act in accordance with Department policy.

In this case, however, Claimant presented evidence that she did in fact timely notify the Department of her shelter expenses. At the hearing, Claimant established that she submitted a mortgage statement to the Department on two occasions, on April 17, 2014, with her redetermination, and on May 15, 2014, in response to the VCL, and provided copies of the statement she submitted showing that they were date-stamped as received by the local Department office on the dates identified. The mortgage statement is addressed to Claimant, identifies the property at issue as the address Claimant verified on the record as her home, shows current monthly payments as of May 1, 2014 of \$671.69, and is on the mortgage company letterhead. The statement was sufficient verification of Claimant's monthly housing expense. BEM 554, pp. 12, 14.

Although the VCL requested verification of home insurance payments, the May 16, 2014 Hearing Decision ordered the Department to request verification from Claimant of her "mortgage expenses, taxes, and insurance." Claimant testified that her monthly mortgage payment was her sole shelter expense. When a client has a shelter expense, the Department must consider the expense in determining the client's FAP eligibility and allotment. BEM 554 (May 2014), p. 12. The expense does not have to be paid to be allowed. BEM 554, p. 12. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FAP case because she failed to verify her shelter expenses.

It is noted that Claimant is eligible for the mandatory heat and utility standard in calculating her excess shelter deduction. BEM 554, p. 15. Because Claimant is purchasing her home, the Department should verify her ongoing heating obligation only if questionable. BEM 554 (October 2014), p. 16.

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.

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 June 1, 2014;
2. Recalculate Claimant's FAP eligibility using the verified shelter expenses;
3. Issue supplements to Claimant for FAP benefits she was eligible to receive from June 1, 2014 ongoing; and
4. Notify Claimant in writing of the monthly FAP benefits she is eligible to receive.



Alice Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/11/2015**

Date Mailed: **2/11/2015**

ACE / 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]