

**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.: 15-002901
Issue No.: 3002
Case No.: ██████████
Hearing Date: March 26, 2015
County: WAYNE-DISTRICT 35
(REDFORD)

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 March 26, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective January 1, 2015?

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 or around December 5, 2014, Claimant applied for FAP benefits. As a result of Claimant's application, she received FAP expedited service. See BAM 117 (July 2014), pp. 1-7.
2. In the application, Claimant indicated that she and her husband were co-owners of a checking and savings account from Chase Bank. See Exhibit 1, p. 4. Claimant indicated both accounts had a balance of zero. See Exhibit 1, p. 4. Claimant's case comments also indicated that she stated she had a savings account in the FAP in-person interview. See Exhibit 1, p. 24.

3. On or around December 4, 2014, Claimant submitted verification of the vehicle registrations, her checking account ending in -4815, and she also indicated on the checking statement that “we have no savings account.” See Exhibit 1, pp. 7-13.
4. Claimant alleged that she submitted the verifications on December 5, 7, and 17 of 2014.
5. On December 8, 2014, the Department sent Claimant a Verification Checklist (VCL), which requested verification of wages, checking/savings account, mortgage, and vehicle ownership. See Exhibit 1, pp. 5-6. The verifications were due back by December 18, 2014. See Exhibit 1, pp. 5-6.
6. On an unspecified date, the DHS caseworker discovered that its system reported that Claimant had both a savings and checking account with ██████████ in 2013. See Exhibit 1, pp. 14-17. The Department’s system reported that Claimant had a Chase Bank savings account ending in ██████████. See Exhibit 1, pp. 14-17.
7. On January 23, 2015, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective January 1, 2015, ongoing, for failure to provide verification of vehicle ownership and the bank savings/checking accounts. See Exhibit 1, pp. 18-21. However, the Department indicated that Claimant’s closure is based on her failure to provide verification of the ██████████ savings account ending in ██████████. See Exhibit 1, p. 1.
8. On February 6, 2015, Claimant submitted a written statement from ██████████ stating that Claimant’s spouse savings account ending in ██████████ is closed. See Exhibit 1, p. 23. The Department still indicated that Claimant failed to provide any information for ██████████ savings account ending in ██████████. See Exhibit 1, p. 1.
9. On February 20, 2015, Claimant filed an oral hearing request, disputing the Department’s action. See Exhibit 1, p. 3 and BAM 600 (January 2015), p. 2.

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.

For FAP expedited service, groups that did not provide all required verifications will not be issued benefits for subsequent months until the FAP group provides the waived verification or completes a redetermination. BAM 117, p. 5. Groups that apply after the 15th of the month receive a minimum benefit period of two months (month of application and following month). BAM 117, p. 5. If waived verifications/actions are not met by the 10th day following the request, the Department takes the required actions in its system timely to deny the ongoing FAP benefits for the remainder of the benefit period. BAM 117, p. 5.

In this case, the Department indicated that Claimant's closure is based on her failure to provide verification of the [REDACTED] savings account ending in [REDACTED]. See Exhibit 1, p. 1. The Department testified that it would, for example, accept a letter from her bank stating her savings account ending in [REDACTED] is closed. The Department argued that it properly closed her case for failure to provide verification of the savings account.

In response, Claimant testified that she has never had or knew of a savings account ending in -5763. Claimant testified that she notated the savings account in the application either mistakenly or she was overly cautious. Claimant testified that the savings account (a different account number than the one the Department pursued) had been closed and it would reopen if money was deposited into the account.

Also, Claimant indicated there was a discrepancy as to when the documentation was submitted. Claimant testified that she did not submit the documents on December 4, 2014; rather, she submitted the documents on December 5, 7, and 17 of 2014. Specifically, Claimant testified that she submitted the checking account statement ending in [REDACTED] with the notation of "we have no savings account" on December 7 and 17 of 2014. See Exhibit 1, pp. 8-13. Nevertheless, Claimant submitted the documentation before the VCL due date of December 18, 2014. See Exhibit 1, p. 5.

From on or around December 17, 2014 to January 17, 2015, Claimant testified that she did not receive any communication from the Department and assumed the verifications were proper. However, Claimant testified that she did not receive her FAP issuance and contacted her DHS caseworker a few times in January 2015, but to no avail. Claimant received the closure notice and was finally able to speak to a DHS supervisor who informed her to provide a letter from the bank indicating the savings account was closed. As such, on February 6, 2015, Claimant submitted a written statement from [REDACTED] stating that the savings account ending in [REDACTED] is closed. See Exhibit 1, p. 23. However, Claimant discovered that this was not the savings account the Department sought; rather, it wanted verification of the savings account ending in [REDACTED]. Claimant testified that at no time did the supervisor inform her of this account number. During the hearing, Claimant submitted a written statement form [REDACTED] stating that Claimant and her spouse do not have accounts open at [REDACTED] ending in [REDACTED] and that they only have a checking account ending in [REDACTED]. See Exhibit A, p. 1.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective January 1, 2015, in accordance with Department policy.

First, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (October 2014), p. 6. 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, p. 6.

Claimant submitted the checking account statement ending in [REDACTED] with the notation of "we have no savings account" before the VCL due date. See Exhibit 1, pp. 8-13. Even though Claimant originally indicated she had a savings account, the evidence presented that she made a reasonable effort to provide the verifications before the time period had elapsed. Because Claimant made a reasonable effort to provide the verifications requested before the time period given had elapsed, the Department improperly closed her FAP benefits in accordance with Department policy. BAM 130, p. 6.

Second, before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130, p. 8. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. Acceptable verification sources for savings account include a written statement from the financial institution, telephone contact with financial institution, etc. BEM 400 (January 2015), p. 59.

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

In this case, the Department could have used the best available information it had based on Claimant's statement indicating she had no savings account. See BAM 130, p. 3. Or, policy states that acceptable verifications for savings account include collateral contact with the financial institution. See BEM 400, p. 59. Therefore, the Department could have contacted [REDACTED] in order to determine whether the savings account ending in [REDACTED] even existed. See BEM 400, p. 59. Also, the Department could have sent a subsequent VCL to resolve the discrepancy of the savings account ending in [REDACTED]. See BAM 130, p. 8.

Additionally, this ALJ finds that Claimant credibly testified that the DHS supervisor never informed her of the savings account it sought verification. To support Claimant's credibility, she responded to the supervisor's request by providing a written statement

from [REDACTED] on February 6, 2015. See Exhibit 1, p. 23. This ALJ believes that if the supervisor specified the savings account ending in [REDACTED], then Claimant would have provided such verification.

For all of the above stated reasons, the Department improperly closed Claimant's FAP benefits in accordance with Department policy. See BAM 130, pp. 3 and 8 and BEM 400, p. 59. It is imperative to note that Claimant did provide a written statement form [REDACTED] stating that Claimant and her spouse do not have accounts open at [REDACTED] [REDACTED] and that they only have a checking account ending in [REDACTED] - [REDACTED]. See Exhibit A, p. 1. As such, the Department is aware that Claimant does not have an open account at [REDACTED] account ending in [REDACTED] and verification of this account is not necessary after reinstating the case.

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 improperly closed Claimant's FAP benefits effective January 1, 2015, ongoing.

Accordingly, the Department's FAP 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 as of January 1, 2015;
2. Begin recalculating the FAP budget for January 1, 2015, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2015, ongoing; and

4. Notify Claimant of its FAP decision.


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/27/2015**

Date Mailed: **3/27/2015**

EJF/tm

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]
[REDACTED]