

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

IN THE MATTER OF:

██████████
██████████
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Reg. No.: 15-002435
Issue No.: 3002
Case No.: ██████████
Hearing Date: April 20, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████ Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████ Hearings Facilitator.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective December 17, 2014?

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 December 17, 2014, Claimant applied for FAP benefits.
2. On December 17, 2014, Claimant included verifications with her application (i.e., pay stubs, assets (bank statements), identification, employment verifications, etc.). See Exhibit 1, pp. 10-13. However, the Department indicated some of the verifications were incomplete. See Exhibit 1, pp. 1 6, and 10-13.
3. On December 18, 2014, the Department sent Claimant a Verification Checklist (VCL), which was due back by December 29, 2014. See Exhibit 1, pp. 4-5. The VCL requested proof of assets (checking/savings accounts), a group member's wages, and a shelter verification. See Exhibit 1, pp. 4-5.

4. On December 23, 2014, Claimant submitted verification of her shelter and assets (including bank statements).
5. On January 15, 2015, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective December 17, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1, pp. 6-9. Specifically, the Notice of Case Action indicated Claimant failed to provide proof of a group member's pay stubs from November, 17, 2014 to December 17, 2014, the bank account verifications scanned were unreadable, and the lease agreement scanned is missing the first page. See Exhibit 1, p. 6.
6. On February 9, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.
7. On March 10, 2015, the Michigan Administrative Hearing System (MAHS) sent both parties a Notice of Hearing, which scheduled a hearing for March 25, 2015.
8. On March 23, 2015, Claimant requested an adjournment.
9. On March 25, 2015, the Administrative Law Judge (ALJ) sent both parties an Adjournment Order.
10. On March 31, 2015, the MAHS sent both parties a Notice of Hearing, which rescheduled the hearing for April 20, 2015.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

As a preliminary matter, for FAP only, if the Claimant completes the application process (after the denial) between the 31st and 60th day after the application, the Department will re-register the application, using the date the client completed the process. See BAM 115 (January 2015), p. 23. If the client is eligible, the Department prorates

benefits from the date the client complied. BAM 115, p. 23. On January 22, 2015, the Department indicated that Claimant provided the missing verifications. See Exhibit 1, p. 1. Claimant submitted the verifications between the 31st and 60th day after the application. Therefore, on February 12, 2015, the Department sent Claimant a Notice of Case Action notifying her that she was approved for FAP benefits effective January 22, 2015, ongoing. See Exhibit 1, pp. 14-19 and BAM 115, p. 23. Nevertheless, Claimant still sought FAP benefits from December 17, 2014 to January 21, 2015.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (October 2014), p. 1. The Department obtains verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. The questionable information might be from the client or a third party. BAM 130, p. 1. 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.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHHS representative are considered to be received the next business day. BAM 130, 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.

In the present case, the Department representative was reviewing the case during the hearing and discovered that Claimant submitted all the necessary verifications on December 17, 2014 and December 23, 2014. The DHHS caseworker who processed Claimant's case originally indicated that the application was denied because the verifications were incomplete. However, the Department representative present for the hearing acknowledged that all verifications were received and the Department processed the application in error.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it denied Claimant's FAP application effective December 17, 2014. See BAM 105, p. 8 and BAM 130, pp. 1, 3, and 6. As stated above, the Department acknowledged that it processed application in error as the

Department confirmed all verifications were received. Therefore, the Department will reprocess Claimant's application in accordance with Department policy.

It should be noted that this ALJ also finds an additional reason as to why Claimant's FAP application was denied improperly. Claimant submitted the verifications on December 17, 2014 (application date and even before the VCL was generated) and on December 23, 2014, which was before the VCL due date. Both of these attempts demonstrate Claimant's reasonable effort to submit the verifications before the time period had elapsed. See BAM 130, p. 6. As such, the Department also improperly denied Claimant's FAP application because she made a reasonable effort to submit the verifications before the time period had elapsed. See BAM 130, p. 6.

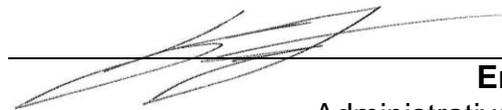
DECISION AND ORDER

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 denied Claimant's FAP application effective December 17, 2014.

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. Initiate re-registration and reprocessing of Claimant's FAP application dated December 17, 2014;
2. Issue supplements to Claimant for any FAP she was eligible to receive but did not from December 17, 2014, ongoing; and
3. Notify Claimant of its decision.



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

Date Signed: **4/21/2015**

Date Mailed: **4/21/2015**

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]
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