

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003622
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: April 15, 2015
County: WASHTENAW (DISTRICT 20)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) cases based on a failure to comply with verification requirements?

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 a recipient of FAP and CDC benefits.
2. On January 23, 2015, a Verification Checklist was issued to Claimant stating what verifications were needed by the February 2, 2015, due date.
3. On January 23, 2015, Verification of Asset forms were also issued specifying the banks and account numbers for the two bank accounts the Department was requesting verification of.
4. The requested DHS 4025 Child Care Provider Verification Form needed to determine CDC eligibility did not generate with the January 23, 2015, Verification Checklist.
5. On or about January 28, 2015, Claimant timely submitted some of the requested verifications.

6. On February 19, 2015, a Notice of Case Action was issued to Claimant, in part, stating the CDC case would close effective March 8, 2015, and the FAP case would close effective March 1, 2015, based on a failure to comply with verification requirements.
7. On March 2, 2015, Claimant filed a hearing request contesting the Department's actions.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105 (January 1, 2015), p. 8.

In general, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. BAM 130 (October 1, 2014), pp. 1-3.

For FAP and CDC, the Department is to send 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.

On January 23, 2015, a Verification Checklist was issued to Claimant stating what verifications were needed by the February 2, 2015, due date.

On or about January 28, 2015, Claimant timely submitted at least some documentation for one of the two requested bank accounts. This was several days prior to the February 2, 2015 due date. The Eligibility Specialist's testimony acknowledged that due to other Department commitments and caseloads, she was not able to contact Claimant to let her know the submitted screen print was not sufficient and further verification was still needed for the bank accounts. The Eligibility Specialist's testimony also indicated that the Department is now aware that the other bank account was closed.

Claimant testified about the many emails she sent to the Department about her case. At least some of these emails were submitted in Claimant's hearing exhibits. These emails support Claimant's testimony regarding her difficulties contacting the Department to follow up on her case. It appears that the problems started when a Redetermination form was not timely scanned in by the Department, leading to the Department not calling Claimant for a scheduled telephone interview. It appears that the required interview was eventually re-scheduled and completed. Further, a February 26, 2015, email references prior emails in which Claimant asked the Department about the verifications and to confirm if they were received.

Overall, the evidence does not establish that Claimant refused to provide a requested verification, or that Claimant had not made a reasonable effort to provide requested verification before time period given elapsed. Rather, the evidence indicates that Claimant made reasonable efforts to provide requested verifications and tried to confirm that the Department received the needed documentation prior to the due date. Additionally, the Department indicated they are willing to re-determine Claimant's eligibility for CDC because the requested DHS 4025 Child Care Provider Verification Form needed to determine CDC eligibility did not generate with the January 23, 2015, Verification Checklist.

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 and CDC cases based on a failure to comply with verification requirements.

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. Re-determine Claimant's eligibility for CDC retroactive to the March 8, 2015, effective date in accordance with Department policy.
2. Re-determine Claimant's eligibility for FAP retroactive to the March 1, 2015, effective date in accordance with Department policy.
3. Issue written notice of the determination in accordance with Department policy.
4. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/24/2015**

Date Mailed: **4/24/2015**

CL/hj

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:

