

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-004484
Issue No.: 3002
Case No.: ██████████
Hearing Date: April 27, 2015
County: MACOMB-DISTRICT 20
(WARREN)

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 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's Authorized Hearing Representative (AHR)/spouse, ██████████. 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 January 20, 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 January 20, 2015, Claimant applied for FAP benefits.
2. On February 4, 2015, the Department sent Claimant a Verification Checklist (VCL), which requested verification of assets from two different financial institutions (hereinafter referred to as "financial institution A" and "financial institution B"). See Exhibit 1, p. 4. Specifically, the VCL requested proof of Claimant's checking and savings account from financial institution A and proof of his savings account from financial institution B (three accounts in total). See Exhibit 1, p. 4. The verifications were due back by February 17, 2015. See Exhibit 1, p. 4. The VCL requested additional verifications, but were not at issue in this case.

3. On February 17, 2015, Claimant submitted verification of his savings account from financial institution B. See Exhibit 1, pp. 1 and 6.
4. On February 17, 2015, Claimant also submitted verification of his checking and savings account from a financial institution. See Exhibit 1, pp. 1 and 5. However, the verifications indicated a different financial institution name (hereinafter referred to a “financial institution C”), which it appeared not related to financial institutions A or B.
5. On February 18, 2015, the Department sent Claimant a Notice of Case Action notifying him that his FAP application was denied effective January 20, 2015, ongoing, due to his failure to provide verification of savings account, rent expense, and earned income payment. See Exhibit 1, pp. 7-8. It should be noted that the Department indicated the denial was based on the failure to submit verification of financial institution A. See Exhibit 1, p. 1.
6. On March 20, 2015, Claimant filed a hearing request, protesting the FAP denial. See Exhibit 1, pp. 9 and 11. With the hearing request, Claimant provided verification that financial institutions A and C are one and the same. See Exhibit 1, p. 10.

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.

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 and see also BEM 400 (January 2015), pp. 57-59 (assets verification sources for checking and savings accounts).

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 this case, the Department testified that it was unaware that financial institutions A and C were one and the same until Claimant provided verification of it on March 20, 2015. See Exhibit 1, p. 10. As such, the Department argued that it properly denied Claimant's application because it discovered that both financial institutions A and C were the same after the denial. Instead, the Department indicated it would re-register Claimant's application from the time he completed the application process, March 20, 2015. See BAM 115 (January 2015), p. 23 (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. If the client is eligible, the Department prorates benefits from the date the client complied).

In response, Claimant argued that their DHHS caseworker was aware that financial institutions A and C were one and the same dating back to his redetermination in November or December of 2014. Claimant's DHHS caseworker was not present for the hearing to rebut his testimony. As such, Claimant argued that he thought he provided all the necessary verifications timely.

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 January 20, 2015. See BAM 105, p. 8 and BAM 130, pp. 1, 3, and 6. The Department had a reasonable argument to deny Claimant's application for his failure to comply with the verification requirements (i.e., discrepancies with the financial institutions identities). Nevertheless, this Administrative Law Judge (ALJ) finds that Claimant made a reasonable effort to provide the verifications before the time period given had elapsed. See BAM 130, p. 6. The evidence established that Claimant submitted the verifications on February 17, 2015, which was by the VCL due date. See Exhibit 1, pp. 1 and 4-6. Even though there appeared to be confusion with the submitted documentation, Claimant demonstrated a reasonable effort to submit the verifications before the time

period had elapsed. See BAM 130, p. 6. As such, the Department improperly denied Claimant's FAP application in accordance with Department policy. See BAM 130, p. 6.

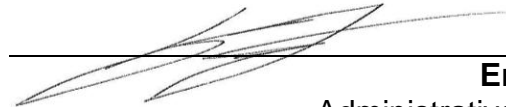
DECISION AND ORDER

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 improperly denied Claimant's FAP application effective January 20, 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. Initiate re-registration and reprocessing of Claimant's FAP application dated January 20, 2015;
2. Begin issuing supplements to Claimant for any FAP benefits he was eligible to receive but did not from January 20, 2015, ongoing; and
3. Begin notifying Claimant and Claimant's AHR of its decision.



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

Date Signed: **4/28/2015**

Date Mailed: **4/28/2015**

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]
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