

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

IN THE MATTER OF:

██████████
████████████████████
██████████

Reg. No.: 15-008180
Issue No.: 3002
Case No.: ██████████
Hearing Date: June 22, 2015
County: WAYNE-DISTRICT 35
(REDFORD)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 June 22, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant's Food Assistance (FAP) case for failure to provide verification of income?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of FAP benefits. The Department sent the Claimant a redetermination on April 21, 2015 and it was determined that both Claimant and her son had earned income. Exhibit 1.
2. On the redetermination the Claimant also reported her move to a new address, 32960 Parkhill, Wayne, Michigan. Exhibit 1.
3. The Department requested proof of income and issued a verification checklist on April 30, 2015 with a due date of May 11, 2015. The verification requested

“missing pay stubs updated earned income, at Redetermination.” The verification was sent to the Claimant at the correct new address. Exhibit 2.

4. The Claimant provided the requested pay stubs for her employment to the Department as requested pursuant to the verification check list due date. Exhibit 4.
5. On May 13, 2015 the Claimant provided a pay stub for her son for a two-week period beginning April 12, 2015. At the time the Claimant advised that she was unable to provide other pay stubs, as the employer would not provide duplicates. The Claimant advised the Department that the pay stubs could be found online. A year-to-date earnings total appears on the pay stub provided. Exhibit 5.
6. The Department issued a Notice of Case Action on May 18, 2015 closing the Claimant’s FAP case effective May 1, 2015 for failure to verify information.
7. The Claimant requested a timely hearing on May 18, 2015 protesting the closure of her FAP benefits.

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.

In this case, the Department closed the Claimant’s FAP benefits case due to failure to provide verification of earned income effective May 1, 2015. Exhibit 3. The Claimant credibly testified that she provided her pay stubs to the Department timely. All of the Claimant’s son’s pay stubs could not be provided as the son’s employer would not issue duplicate copies; however, the pay stub provided showed income earned as of March 15, 2015 through March 23, 2015 with a year-to-date income shown. The pay stub information for the Claimant’s son was late by two days and the note on it indicated that the employer would not cooperate and pay information could be found online. This information was provided to the Department prior to the Notice of Case Action closing the FAP case. It did not appear that the Department followed up regarding this information with the Claimant.

In this case it appears that the Claimant provided the information she had regarding her employment timely but had difficulty obtaining income regarding her son's pay stubs, and advised the Department of the problem with the employer. The pay stub provided would have allowed the Department to determine by averaging the year-to-date income by the number of weeks shown on the stub, or the Department could have sent the Claimant a verification of employment to be completed by her son's employer, or the Department could have checked online to see if information of employment earnings was available from this employer. The Department also was not clear on its verification what missing pay stubs were sought and updated earned income at redetermination indicating the information was required for each person listed below; however, no name of any person was listed. This request for verification was unclear. Exhibit 2.

Department policy found in BAM 130 directs:

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 (July 1, 2015), p 6-7.

Based upon this standard it is determined that the Claimant did not indicate a refusal to provide verification information and did not fail to make a reasonable effort to provide the verifications under these circumstances and, thus, the Department improperly closed the Claimant's FAP case.

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 the Claimant's FAP case for failure to provide verifications.

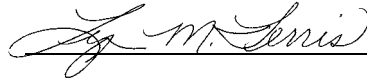
DECISION AND ORDER

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. The Department shall reinstate the Claimant's FAP case as of the date of closure and seek further verification of the Claimant's son's earnings through online information or by verification of employment from the employer and shall use the best income information available to complete the redetermination.

2. The Department shall issue a FAP supplement, if any are due, to the Claimant in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/30/2015**

Date Mailed: **6/30/2015**

LMF / cl

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]
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