

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-013520
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: September 15, 2015
County: Calhoun (21)

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

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits 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 benefits.
2. Claimant returned a completed Redetermination form on the June 1, 2015, due date.
3. On June 4, 2015, a Verification Checklist was issued to Claimant stating verification of a vendor pre-paid debit card was needed by the June 15, 2015, due date.
4. On June 10, 2015, Claimant returned the vendor pre-paid debit card verification.
5. On June 15, 2015, a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly allotment of \$ [REDACTED] for July 1, 2015, through June 30, 2016.

6. On June 23, 2015, a Verification Checklist was issued to Claimant stating verification of other self-employment, savings account/Christmas club account, checking account, and income tax refund was needed by the July 6, 2015, due date. In part, the comments included routing and account numbers for two bank accounts.
7. On June 29, 2015, a Verification Checklist was issued to Claimant with a July 9, 2015, due date requesting Claimant provide additional information about self-employment income unknown, employment income unknown, unearned income unknown, assets, real property unknown, and vehicle. The comments requested Claimant verify all income, assets, and expenses for Claimant and her friend by the due date.
8. On July 6, 2015, Claimant submitted a letters addressing each of the verification requests and providing the available requested verifications. In part, Claimant noted her call to the ES about the requested verifications, including not knowing what one of the listed bank accounts was.
9. On July 10, 2015, a Notice of Case Action was issued to Claimant stating the FAP benefits would close effective August 1, 2015, based on a failure to comply with verification requirements.
10. On July 13, 2015, Claimant submitted additional verifications.
11. On July 20, 2015, Claimant filed a hearing request contesting the Department's action.

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.

Additionally, a client 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. The client might be unable to answer a question about himself or another person whose circumstances must be known. The Department is to allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. For FAP, the Department is not to deny eligibility due to failure to cooperate with a verification request by a person outside the group. BAM 105 (July 1, 2015) p. 8.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department is to use the best available information. If no evidence is available, the Department is to use best judgment. Verifications are considered timely if received by the date they are due. 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 (July 1, 2015) pp. 1-6.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but not grant an extension. The Department is to explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department is to explain their eligibility will be determined based on their compliance date if they return required verifications. BAM 130. pp. 6-7.

In this case, the HF's testimony indicated that the multiple verification checklists being issued to Claimant related to on an Office of Inspector General (OIG) investigation. The HF read the OIG investigation summary into the record. In part, the OIG investigation addressed net business income Claimant reported on her taxes that had not been reported to the Department and two bank accounts that the 2013 and 2014 tax refunds were allegedly direct deposited into. The HF testified that the verification that was not received was for one of the specified bank accounts on the June 23, 2015, a Verification Checklist, account number [REDACTED]. The comments added to this Verification Checklist show that the Department was seeking to verify the 2013 and 2014 taxes as well as all business income and expenses for the claimed income. (Department Exhibit 5)

Claimant credibly testified that she called the ES to clarify the verification request because she did not know what account number [REDACTED] was. This is also supported by the letter Claimant submitted on July 6, 2015, in part, noting her call to the ES about the requested verifications. In this letter Claimant states that when she told the ES she did not know what this account was, the ES told her the Department just wants the account information for the account the taxes were deposited into. (Department Exhibit A, p. 7C) Claimant testified that it was not until the day of these hearing proceedings that she was finally able to figure out what that account was. Claimant asserted that this is just an account where her daughter's Social Security benefit is deposited, Claimant is the Representative Payee, the account was opened this summer, and no taxes were deposited into it. Further, for the listed account Claimant did recognize, she provided verification that the account was closed. (Department Exhibit A, pp. 7G-7H)

A review of the 2013 and 2014 tax documents, which Claimant submitted to the Department on July 6, 2015, show that no bank account information was included on the forms for the tax refunds to be issued by direct deposit. (Department Exhibit 7O and 7T)

Overall, the evidence shows that Claimant has been cooperative with the Department's multiple requests for additional verifications and provided available documentation promptly. Claimant called the ES for assistance when she was unable to determine what the listed bank account at issue was. Claimant understood from her conversation with the ES that the Department was seeking verification of accounts the taxes were deposited into. The requested tax documentation Claimant provided to the Department by the Verification Checklist due date does not support the assertion in the OIG investigation summary that Claimant received 2013 and 2014 income tax refunds by direct deposit into two accounts, one of which was the account number at issue [REDACTED]. The evidence establishes that Claimant made reasonable attempts to comply with the Department's request for verification.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP benefits 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 FAP retroactive to the August 1, 2015, effective date in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. 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 Mailed: **9/18/2015**

CL/jaf

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:

