

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-012848
Issue No.: 3004
Case No.: [REDACTED]
Hearing Date: October 06, 2015
County: GENESEE-DISTRICT 6
(CLIO RD)

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 October 6, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself and [REDACTED], a family member. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator [REDACTED].

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) and/or Food Assistance Program (FAP) applications from April 3, 2015 ongoing?

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 an ongoing recipient of Food Assistance Program (FAP) benefits. Her benefit group included herself, her spouse, [REDACTED] and their three children.
2. On January 4, 2015, [REDACTED] began employment through a temporary agency named [REDACTED].
3. On February 16, 2015, [REDACTED] employment ended.
4. On March 11, 2015, Claimant was sent a New Hire Client Notice (DHHS-4635) regarding employment of [REDACTED] [REDACTED]. The required

employment verification information was due back on March 23, 2015. (Pages 45 & 46)

5. On March 19, 2015, the required employment verification information was submitted to the Department.
6. On April 13, 2015, [REDACTED] started another assignment through The Personnel Office, Inc.
7. On April 20, 2015, the Department printed two Verification of Employment (DHHS-38) forms for [REDACTED]. One listed [REDACTED] as the employer and the other listed [REDACTED] as the employer. (Pages 32-35)
8. On April 22, 2015, Claimant submitted a Filing Form (DHHS-1171-F) and an Assistance Application (DHHS-1171). (Pages 4-25) The application lists employment income for [REDACTED] at [REDACTED]. (Page 19)
9. On April 24, 2015, Claimant was sent an Appointment Notice (DHHS-170) which scheduled a telephone interview for 9:00 am on May 1, 2015. (Page 26)
10. On May 1, 2015, at 9:21 am, Claimant called to inquire about the telephone interview. Claimant was told that an application and Verification Checklist (DHHS-3503) had been mailed to her on April 23, 2015 and had not been returned so the interview could not be done. Claimant was told if she wanted to receive assistance, an application had to be filled out. Claimant was sent a Notice of Missed Interview (DHHS-254) which stated she (Claimant) was responsible to reschedule the telephone interview by May 22, 2015 or her application would be denied.
11. On May 2, 2015, [REDACTED] employment ended.
12. On May 5, 2015, Claimant was sent a Notice of Case Action (DHHS-1605) which stated the April 22, 2015 application was denied for failure to verify or allow the Department to verify information necessary to determine eligibility. (Pages 28 & 29)
13. On May 20, 2015, the Department determined the April 22, 2015 application had been denied in error. Claimant was sent a Verification Checklist (DHHS-3503) the requested verifications were due on June 1, 2015. One of the items listed for verification was [REDACTED] income. (Pages 30 & 31)
14. On June 1, 2015, Claimant submitted verifications to the Department. (Pages 36-41) The verifications included one weekly paycheck of [REDACTED] from [REDACTED]. (Page 38)

15. On June 2, 2015, Claimant was sent a Notice of Case Action (DHHS-1605) which stated her April 22, 2015 application was denied. The application was denied for failure to provide 30 days of income verification for both of [REDACTED] employers.
16. On June 5, 2015, the Department received employment verification from [REDACTED]. (Pages 44-47) The verification clarifies that [REDACTED] is a client of [REDACTED].
17. On June 23, 2015, Claimant was sent a Notice of Case Action (DHHS-1605) which stated she was approved for Food Assistance Program (FAP) benefits beginning June 5, 2015.
18. On July 2, 2015, Claimant submitted a hearing request.

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 Department case worker who processed Claimant's case was not present at this hearing. Claimant's request for hearing states in part "I turned in my application for the third time on April 22, 2015! No reason I didn't get a back pay for at least the last few months when I turned in all my paperwork." The Department only addressed the April 22, 2015 application in the Hearing Summary (DHHS-3050) sent in with the request. Bridges Administration Manual (BAM) 600 Hearings, provides jurisdiction for Departmental actions which were taken within 90 calendar days of the date of a hearing request. The 90 day window for this July 2, 2015 hearing request goes back to April 3, 2015.

Verbal testimony during this hearing established that Claimant's Food Assistance Program (FAP) was closed for failure to provide verification of Jonathan's employment income. No evidence was entered regarding the date Claimant's Food Assistance Program (FAP) was closed. The Department representative testified that Claimant's electronic document file shows the Department had received the March 11, 2015 New Hire Client Notice (DHHS-4635) completed by The Personnel Office on March 19, 2015.

Review of page 46 as submitted on June 5, 2015, shows that the form was first signed on March 19, 2015. That date is marked through and 6-5-15 is written above. The employment dates originally written on the form are January 4 to February 16, 2015. There is an annotation adding employment dates from April 13 to May 2, 2015.

The two Verification of Employment (DHHS-38) forms for Jonathan, which were printed on April 20, 2015 (Pages 32-35), indicate that either the Food Assistance Program (FAP) case was still open or an application was being processed.

The June 5, 2015, employment verification submitted by [REDACTED] establishes that [REDACTED] DID NOT have two separate employers. Any negative action taken by the Department for failure to verify earned income sources for [REDACTED] was an incorrect action.

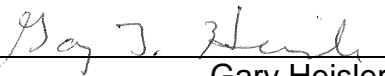
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's Food Assistance Program (FAP) and/or Food Assistance Program (FAP) applications from April 3, 2015 ongoing.

DECISION AND ORDER

Accordingly, the Department's actions are **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. Review the actions taken on Claimant's Food Assistance Program (FAP) and any applications during the period of time in question.
2. Correct any mistakes made in the processing of Claimant's Food Assistance Program (FAP) and any applications during the period of time in question.
3. Supplement Claimant any Food Assistance Program (FAP) benefits she was otherwise eligible to receive but did not due to mistakes made in the processing of Claimant's Food Assistance Program (FAP) and any applications during the period of time in question.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/15/2015**

Date Mailed: **10/15/2015**

GFH / 

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:

