

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-001905
Issue No.: 3001
Case No.: ██████████
Hearing Date: March 12, 2015
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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. After due notice, a telephone hearing was held on March 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's daughter-in-law and interpreter. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case effective January 1, 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. Claimant was an ongoing recipient of FAP benefits.
2. In November 2014, the Department sent Claimant a FAP redetermination and Claimant completed and submitted the document to the Department.
3. On December 1, 2014, Claimant submitted to the Department an employment statement showing his son's income through November 7, 2014 (Exhibit B).
4. On December 5, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting, in part, Claimant's son's "last 30 days of check stubs or earning statements."

5. On December 10, 2014, Claimant submitted his son's earning statement showing income through November 14, 2014.
6. On January 22, 2015, the Department sent Claimant a Notice of Case Action advising him that his FAP case closed effective January 1, 2015 because he had failed to return verification of his son's earned income.
7. On February 4, 2015, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Claimant disputed the closure of his FAP case. The January 22, 2015, Notice of Case Action explained that Claimant's FAP case closed effective January 1, 2015, because Claimant had failed to verify his son's income in connection with a redetermination.

A client must verify income at redetermination. BEM 501 (July 2014), p. 13. To prospect employment income, the Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 501, p. 5. The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. BEM 505, p. 5. Verifications requested in connection with a FAP redetermination are due by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210 (July 2014), p. 14.

At the hearing, the Department explained that, although Claimant had verified his son's income through November 14, 2015, the December 5, 2015 VCL asked for the son's "[l]ast 30 days of check stubs or earnings statements." Based on the VCL date, the last 30 days would cover November 2014. Because Claimant failed to provide evidence of the son's November 21, 2014 and November 28, 2014 income, his FAP case was not recertified and the case closed effective January 1, 2015.

Claimant's daughter-in-law testified that Claimant made several attempts to contact the Department to verify if the document he submitted on December 10, 2014 was sufficient. The local office must assist a client who needs and requests help to obtain verifications, paying particular sensitivity to clients who are not fluent in English. BAM 130, p. 3; BAM 105 (January 2015), p. 14. In this case, the testimony showed that Claimant spoke English very well but he was not fluent in English. Claimant twice obtained earnings statements for his son and submitted them to the Department, on December 1, 2014 and on December 10, 2014 in response to the VCL. He testified that he and his son worked for the same employer and he had requested employment documentation from the employer for both of them and did not understand why the documents he submitted concerning his son's employment were insufficient and his were. Claimant and his daughter-in-law testified that Claimant had come into the office and called several times but were unable to speak to the worker. Under the facts presented, the Department failed to act in accordance with Department policy when it did not assist Claimant in his attempts to obtain the requested verifications.

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 case.

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. Reinstate Claimant's FAP case effective January 1, 2015;
2. Reprocess Claimant's FAP eligibility for January 1, 2015 ongoing;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from January 1, 2015 ongoing; and
4. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/17/2015**

Date Mailed: **3/17/2015**

ACE / tlf

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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]
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