

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

IN THE MATTER OF:

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Reg. No.: 15-003997
Issue No.: 3000
Case No.: ██████████
Hearing Date: April 22, 2015
County: MACOMB-12 (MT CLEMENS)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits for failing to return verifications?

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 FAP recipient.
2. In October, 2014, Claimant reported employment and sent the Department verifications of income, which were deemed satisfactory at the time.
3. In November, 2014, Claimant had a redetermination for Medical Assistance (MA).
4. In this redetermination, Claimant again reported she was working.
5. On February 9, 2015, the MA redetermination was processed, and Claimant's MA benefits were continued.

6. Claimant was sent a verification checklist on February 9, 2015, requesting verification of income for the purposes of FAP benefits.
7. The due date given was February 19, 2015.
8. Claimant did not return the requested verification of income.
9. On February 20, 2015, Claimant was sent a notice of case action closing FAP benefits effective April 1, 2015.
10. On March 11, 2015, Claimant requested a hearing.

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 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 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's FAP benefits were closed for failing to return verification of income. However, a request for verification must be legitimate to put Claimant's benefits in case closure for failing to return said verifications.

Per policy found at BAM 130, pg. 1 (2014), verification is requested when required by policy, required by local office policy, or when a verification factor is unclear, inconsistent, incomplete, or contradictory. Verification is required at application/redetermination and when there has been a reported change.

Claimant had a FAP redetermination in October, 2014, and had reported the income in question and submitted verification of income at that time. Nothing had changed in the intervening time. While it appears that an MA redetermination may have triggered the verification request, nothing in policy requires resubmission of FAP verifications after a completed MA redetermination.

Simply put, no eligibility factors were inconsistent, no policy required resubmission of verifications, and Claimant was not at FAP application/redetermination or had reported an income change. The underlying question—whether the Department had the right to request and require new income verifications, absent any reported change—must therefore be answered negatively, as Claimant had already submitted income

verifications in October that were considered sufficient and nothing in policy allows for a re-request. Nothing in policy allows the Department to continually request updated income verifications from a Claimant when there has been no change, and no requirement in policy to update verifications, such as redetermination or semi-annual contacts.

Therefore, the Department was in error when it closed Claimant's FAP benefit case for failing to return verifications it had no basis in policy requesting.

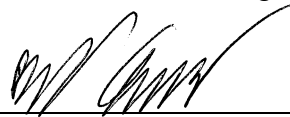
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP benefits for failing to return income verification.

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. Reopen Claimant's FAP benefits retroactive to the date of negative action.



E-Sign

Robert J. Chavez

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

Date Signed: **4/27/2015**

Date Mailed: **4/27/2015**

RJC / 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]
[REDACTED]
[REDACTED]
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