

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-005533
Issue No.: 3002
Case No.: ██████████
Hearing Date: May 13, 2015
County: WAYNE-15 (GREYDALE)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████ and ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Assistance Payments Worker.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application?

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 applied for FAP benefits on February 11, 2015.
2. On February 24, 2015, Claimant was sent a DHS-3503, Verification Checklist, requesting verification of loss of employment.
3. The job in question was lost by the Claimant in January, 2013.
4. Claimant first received FAP benefits following this job loss in February, 2014, and was told that the verification of this job loss was needed at that time.
5. After returning this verification, the verification was requested again in October, 2014; when Claimant did not return the verification of job loss, Claimant's FAP benefits were terminated.

6. On April 6, 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 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 has alleged that because Claimant failed to return verification of job loss, that the denial of FAP benefits was lawful. While BAM 130 does state that an application can be denied for failing to return required verifications, the operative word in that sentence is the word "required". A DHHS client has no duty to return verifications that are not required, even if the Department requests them.

Per BEM 505, pg. 13 (2014), the Department is to verify income that stopped within the 30 days prior to the application date or while the application is pending before certifying the EDG. If eligibility fails due to lack of verification of stopped income, a client who reapplies, does not need to verify stopped income if it has been over 30 days.

Thus, per Department policy, verification of stopped income is not required if the job stopped more than 30 days before application. The job in question stopped in January, 2013, or two years before application. As such, the Department had no right or requirement to request that information, and failed to follow policy by requesting the information and subsequently denying Claimant's benefit application for failing to provide the information.

While the Department protested that their computer system required the verification, and that an audit of the case could turn up discrepancies if the system needed the information, the plea does not fall upon sympathetic ears. Simply put, a requirement put forth by a computer does not excuse in anyway the requirement for the Department to follow policy. Furthermore, it is apparent from the testimony that the Department has not been following this policy for quite some time; the Department failed to follow policy when it first requested the verification in February, 2014 (1 year after job loss), and again in October 2014, when it requested the verification and furthermore, terminated Claimant's benefits. Unfortunately, those two incidents are beyond the undersigned's jurisdiction, but at the very least are relevant to the current case in showing that this

does not appear to be a one-time error; whatever glitch is causing the repeated request for unnecessary verification should be corrected forthwith.

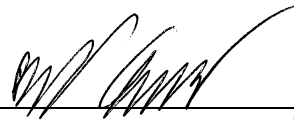
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's FAP application of February 11, 2015.

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. Reprocess Claimant's February 11, 2015 application for FAP benefits.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/21/2015**

Date Mailed: **5/21/2015**

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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