

**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.: 15-009666
Issue No.: 3002
Case No.: ██████████
Hearing Date: July 13, 2015
County: Macomb-District 20 (Warren)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 July 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case on the basis that she failed to return verification of her bank account information?

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 connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. (Exhibit A)
3. Claimant timely submitted proof of her residential lease and her bank account information from ██████████. (Exhibit 1)
4. On May 6, 2015, the Department sent Claimant a Verification Checklist (VCL) and Verification of Asset form instructing Claimant to submit proof of her B ██████████ accounts by May 18, 2015. (Exhibit B)

5. On June 1, 2015, the Department sent Claimant a Notice of Case Action informing her that effective June 1, 2015, her FAP case was closed on the basis that she failed to return verification of her bank account information. (Exhibit D)
6. On June 9, 2015, Claimant requested a hearing disputing the Department's actions with respect to her FAP benefits.

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, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a 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, pp.6- 7. However, FAP benefits stop at the end of the benefit period unless a redetermination is completed, all verifications are received and a new benefit period is certified. BAM 210 (April 2015), p 2.

In this case, the Department testified that because Bridges had bank account information from two separate [REDACTED] accounts on file for Claimant that were not reported or verified on her redetermination, it requested that she submit verification

of her [REDACTED] assets by May 18, 2015, by sending Claimant a VCL and Verification of Asset form. (Exhibit B and Exhibit C). The Department stated that because it did not receive verification of Claimant's [REDACTED] accounts by the due date, it sent Claimant a Notice of Case Action informing her that effective June 1, 2015, her FAP case closed based on a failure to return the requested bank account information. (Exhibit D). It should be noted that although the Notice of Case Action indicates that Claimant failed to cooperate with child support reporting requirements, Claimant and the Department confirmed that this issue had been resolved.

At the hearing, Claimant testified that she did not receive the VCL or the Verification of Asset form. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Although the VCL and Verification of Asset form was mailed to Claimant at her confirmed mailing address, Claimant credibly stated that she was having trouble with receiving mail. The Department confirmed that other documents sent to Claimant during this period were returned to the Department as undeliverable and provided documentation in support of its testimony. (Exhibit E). Therefore, Claimant has presented sufficient evidence to rebut the presumption that she received the VCL and the Verification of Asset form.

In addition, Claimant asserted that both of her accounts at [REDACTED] were closed in February 2014 and that she provided the Department with verification of her account closures during the time of her redetermination last year. Claimant provided a statement from [REDACTED] in support of her testimony and provided the Department with a copy of the document verifying her account closures. (Exhibit 2). The Department indicated that the bank account closures will be processed and applied to Claimant's case file on Bridges.

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 because Claimant established that she did not receive the VCL and Verification of Asset forms instructing her to submit proof of her [REDACTED] account information, the Department did not act in accordance with Department policy when it closed Claimant's FAP case based on a failure to return the bank account verifications.

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 June 1, 2015;
2. Issue FAP supplements to Claimant from June 1, 2015, ongoing; and
3. Notify Claimant, in writing, of its decision.



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

Date Signed: **7/21/2015**

Date Mailed: **7/21/2015**

ZB / 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 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]
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