

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-014951
Issue No.: 1002; 3002; 3004
Agency Case No.: [REDACTED]
Hearing Date: October 8, 2015
County: WAYNE (17) Greenfield/Joy

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department or MDHHS) included [REDACTED], Family Independence Specialist Case Manager. Also, [REDACTED] was present for the hearing as Claimant's interpreter.

ISSUES

Did the Department properly deny Claimant's Family Independence Program (FIP) application dated April 16, 2015?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective July 1, 2015?

Did the Department properly deny Claimant's FIP application dated July 1, 2015?

Did the Department properly process Claimant's Cash (FIP) application dated July 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. On April 16, 2015, Claimant applied for Cash Assistance (FIP) benefits. See Exhibit B, pp. 1-4.
3. On May 18, 2015, the Department sent Claimant a Verification Checklist (VCL), which was due back by May 28, 2015. See Exhibit A, pp. 5-6. The VCL requested proof of Claimant's income and checking account. See Exhibit A, pp. 5-6.
4. On May 28, 2015, Claimant submitted verification of her checking account and a letter indicating that she is not working. See Exhibit A, p. 7.
5. On June 2, 2015, the Department sent Claimant a Notice of Case Action notifying her that her Cash (FIP) application was denied effective May 16, 2015, ongoing, because she failed to submit verification of her earned income and bank checking account. See Exhibit A, pp. 11-12.
6. On June 2, 2015, the Notice of Case Action also notified Claimant that her FAP benefits would close effective July 1, 2015, ongoing, because she failed to submit verification of her earned income and bank checking account. See Exhibit A, pp. 11-12.
7. On July 1, 2015, Claimant reapplied for Cash (FIP) benefits. See Exhibit B, pp. 5-8.
8. On July 13 2015, the Department sent Claimant a VCL and Verification of Employment (DHS-38), which were due back by July 23, 2015. See Exhibit A, pp. 8-10. The VCL requested proof of Claimant's income, checking account, and employment services. See Exhibit A, pp. 8-9.
9. On July 22, 2015, Claimant submitted verification of her checking account and a notation on her Verification of Employment indicating that she is not working. See Exhibit A, p. 10.
10. The Department also indicated that Claimant failed to submit verification of employment services. However, Claimant indicated that she did provide such verification. See Exhibit 1, p. 1.
11. On July 24, 2015, the Department sent Claimant a Notice of Case Action notifying her that her Cash application was denied effective July 16, 2015, ongoing, because she failed to submit verification of her earned income and employment services and that her and a group member were not disabled. See Exhibit A, pp. 13-14.
12. On August 6, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit A, pp. 3-4.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Failure to process

On July 1, 2015, Claimant applied for only Cash Assistance benefits. See Exhibit B, pp. 5-8. Claimant argued that she also applied for FAP benefits as well on July 1, 2015.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (July 2015), p. 17. Any person, regardless of age, or his/her Authorized Representative (AR) may apply for assistance. BAM 110 (July 2015), p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19. Moreover, additional information regarding application processing can be located in BAM 115 (July 2015), pp. 1-35.

Based on the foregoing information and evidence, the Department properly processed Claimant's application dated July 1, 2015, in accordance with Department policy. BAM 105, p. 17; BAM 110, pp. 4 and 19; and BAM 115, pp. 1-35. The evidence established that Claimant only applied for Cash Assistance on July 1, 2015. Moreover, the Department sent Claimant a Notice of Case Action addressing her eligibility for Cash Assistance within the standard of promptness on July 24, 2015. See Exhibit A, pp. 13-14 and BAM 115, pp. 15-16 and 23 (standard of promptness for FIP/SDA benefits and eligibility decisions denials). Thus, the Department properly processed Claimant's application for Cash Assistance dated July 1, 2015.

Cash Assistance application dated April 16, 2015, and FAP benefits

On April 16, 2015, Claimant applied for Cash Assistance (FIP) benefits. See Exhibit B, pp. 1-4. On May 18, 2015, the Department sent Claimant a VCL in order to determine her eligibility for her Cash application and ongoing FAP benefits, which was due back by May 28, 2015. See Exhibit A, pp. 5-6. The VCL requested proof of Claimant's income and checking account. See Exhibit A, pp. 5-6. On May 28, 2015, Claimant submitted verification of her checking account and a letter indicating that she is not working. See Exhibit A, p. 7. It should be noted that Claimant's verification of her checking account is not at issue in this case as it was submitted timely.

During the hearing, the Department testified that its system showed that she had active income. Thus, the Department testified that it requested verification of her earned income. The Department then testified that it only received a letter from the Claimant indicating that she is not working. See Exhibit A, p. 7. The Department testified that this was insufficient verification because the Department needed verification from the employer.

In response, Claimant believed that her verification was sufficient to show that she was no longer employed. In fact, Claimant testified that her employment had ended in October of 2014.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (October 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

For FAP, FIP, and SDA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHHS representative are considered to be received the next business day. BAM 130, p. 6. The Department sends a negative action notice when: the client indicates refusal to provide verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

Additionally, the Department verifies income at application and at redetermination. BEM 505 (July 2014), p. 14. The Department verifies changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. BEM 505, p. 14. The Department verifies income that stopped within the 30 days prior to the

application date or while the application is pending before certifying the Eligibility Determination Group (EDG). BEM 505, p. 14. 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. BEM 505, p. 14.

Based on the foregoing information and evidence, the Department improperly denied Claimant's Cash Assistance application dated April 16, 2015, and improperly closed her FAP benefits effective July 1, 2015.

First, policy does state that the Department only verifies income that stopped within the 30 days prior to the application date or while the application is pending before certifying the EDG. BEM 505, p. 14. Claimant argued that she was last employed in October 2014. Thus, the Department should not have requested such documentation as her stopped income did not occur within 30 days of the April 16, 2015, application. See BEM 505, p. 14. Nevertheless, Claimant also timely responded to the verification request by the due date when she indicated that she is no longer working. See Exhibit A, p. 7. The Department should have not denied Claimant's Cash application/closed her FAP benefits based on failure to comply with the verification requirements. Instead, the Department should have processed Claimant's eligibility for Cash benefits and her ongoing FAP benefits by using the best available information. See BAM 130, p. 3.

Second, the undersigned finds that Claimant made a reasonable effort to provide the verifications before the time period had elapsed. Claimant submitted her checking account and a letter indicating she is no longer employed before the time period had elapsed. See Exhibit A, p. 7. Therefore, the Department improperly denied Claimant's Cash Assistance application dated April 16, 2015, and improperly closed her FAP benefits effective July 1, 2015, in accordance with Department policy. See BAM 130, p. 6.

Cash Assistance application dated July 1, 2015

On July 1, 2015, Claimant reapplied for Cash (FIP) benefits. See Exhibit B, pp. 5-8. On July 13 2015, the Department sent Claimant a VCL and Verification of Employment (DHS-38), which was due back by July 23, 2015. See Exhibit A, pp. 8-10. The VCL requested proof of Claimant's income, checking account, and employment services. See Exhibit A, pp. 8-9. Again, verification of Claimant's checking account was not at issue.

On July 22, 2015, Claimant submitted verification of her checking account and a notation on her Verification of Employment indicating that she is not working. See Exhibit A, p. 10. The Department also indicated that Claimant failed to submit verification of her employment services. However, Claimant indicated that she did provide such verification. See Exhibit 1, p. 1 (doctor letter dated June 12, 2015, indicating that she is unable to work due to medical issues). Claimant testified that she mailed this letter to the Department in response to the VCL dated July 13, 2015.

On July 24, 2015, the Department sent Claimant a Notice of Case Action notifying her that her Cash (FIP) application was denied effective July 16, 2015, ongoing, because

she failed to submit verification of her earned income and employment services and that her and a group member were not disabled. See Exhibit A, pp. 13-14.

Based on the foregoing information and evidence, the Department improperly denied Claimant's Cash Assistance application dated July 1, 2015.

First, the undersigned finds Claimant's testimony credible that she did submit verification of her employment services. Claimant's credibility is supported by the fact that she did provide a copy of her letter. See Exhibit 1, p. 1. As such, the undersigned finds that Claimant did submit verification of her employment services to the Department.

Second, as stated in the previous analysis, the undersigned finds the following: (i) the Department should not have requested verification of Claimant's income as it had stopped more than 30 days after the July 1, 2015, application; (ii) the Department should have processed Claimant's eligibility for Cash benefits by using the best available information; and (iii) the undersigned finds that Claimant made a reasonable effort to provide the verifications before the time period had elapsed. See BAM 130 (July 2015), pp. 3 and 7 and BEM 505 (July 2015) p. 14.

DECISION AND ORDER

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 (i) the Department acted in accordance with Department policy when it properly processed Claimant's application for Cash Assistance dated July 1, 2015; (ii) the Department did not act in accordance with Department policy when it denied Claimant's Cash Assistance application dated April 16, 2015; (iii) the Department did not act in accordance with Department when it closed her FAP benefits effective July 1, 2015; and (iv) the Department did not act in accordance with Department policy when it denied Claimant's Cash Assistance application dated July 1, 2015.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to application processing for Cash Assistance dated July 1, 2015, and **REVERSED IN PART** with respect to Cash Application dated April 16, 2015, and July 1, 2015, and FAP benefits closure effective July 1, 2015.

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. Initiate re-registration and reprocessing of Claimant's Cash Assistance applications dated April 16, 2015, and July 1, 2015;

2. Begin issuing supplements to Claimant for any Cash Assistance benefits she was eligible to receive but did not in accordance with Department policy;
3. Reinstate Claimant's FAP case as of July 1, 2015;
4. Begin recalculating the FAP budget for July 1, 2015, ongoing, in accordance with Department policy;
5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2015, ongoing; and
6. Notify Claimant of its decision.



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

Date Mailed: **10/13/2015**

EJF/jaf

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:

