

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

IN THE MATTER OF:



MAHS Reg. No.: 15-017722
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: November 12, 2015
County: JACKSON

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 November 12, 2015, from Lansing, Michigan. The Claimant, [REDACTED] appeared and testified on her behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager, [REDACTED] and Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly take action to deny the Claimant's application for Food Assistance Program (FAP) benefits due to the Claimant's failure to submit the required verification?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant submitted an application for FAP.
2. On September 11, 2015, the Claimant was mailed a DHS-38, Verification Checklist requesting verifications of bank accounts and wages. The proofs were due on September 21, 2015.
3. The DHS-38, Verification Checklist was mailed to the Claimant from Lansing. The Claimant testified that her postal worker reported to her that the mail also goes to Detroit before being delivered to her in Jackson. The Claimant testified that she did not get the Verification Checklist until three days before the proofs were due.
4. The Claimant came into her local office to obtain at least one more form on the morning of September 22, 2015. The Claimant testified that it was at that time she informed her worker that her employers needed at least 72 hours to complete the

forms. The Department testified that the Claimant said she would bring the completed form back by the end of the day.

5. The Department closed the Claimant's case the afternoon on September 22, 2015 as the Claimant did not bring back that form.
6. On September 29, 2015, the Department received the Claimant's written hearing request protesting the denial of her application.

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, Bridges Assistance Manual (BAM) 130 (2014) p. 2 provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using either a DHS-3503 Verification Checklist, or for MA determinations, the DHS-1175, MA Determination Notice to request verification. The Claimant has 10 days in which to submit the required verifications. In this case, the Department did exactly that. Yet, the Claimant did not receive the DHS-38, Verification Checklist until 3 days before the proofs were due. Furthermore, the Claimant testified that her boyfriend had a bank account 6 years ago and the Department needs to verify that it is closed and the bank will only state over the telephone that he has no account there. The Claimant testified that her employers need at least 72 hours to supply verification. At the time of hearing, nothing had been returned from the Claimant's employers.

Bridges Assistance Manual (BAM) 130 (2014) p. 5 provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Claimant indicates a refusal to provide a verification, or when the time period given has elapsed and the Claimant has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the time period to submit the verification had lapsed, but that the Claimant was making reasonable efforts to provide the verification before her application was denied. The Claimant also expressed she was having difficulty obtaining verification before her application was actually denied.

The Department worker is required to assist the Claimant in obtaining verification if the Claimant needs and requests assistance. In this case, the Claimant expressed that she did not receive the forms promptly and was having difficulty obtaining the verifications, but did not do so until after the day that they were due. The Department's worker gave the Claimant until that afternoon to submit the verifications. The Department's worker should have granted the Claimant an extension at that time, as the Claimant was clearly attempting to obtain the verifications. Furthermore, this may be a case wherein the Department's worker may have to make some collateral contacts to verify stopped employment and closed bank accounts.

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 took action to deny the Claimant's application for FAP.

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. Re-determine the Claimant's eligibility for FAP back to the date of her application, and
2. Issue the Claimant any supplement she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/13/2015**

Date Mailed: **11/13/2015**

SEH/sw

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:

