

**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.: 15-019503
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: December 22, 2015
County: CASS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on [REDACTED], from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Family Independence Manager) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's Food Assistance Program (FAP) benefits?

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 was an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant reported that her daughter, a member of her benefit group, had started new employment.
3. The Claimant reported that her daughter would no longer be living in her home.
4. On September 30, 2015, the Claimant submitted copies of her daughter's paycheck stubs.
5. On September 30, 2015, the Department sent the Claimant a Verification of Employment (DHS-38) with a due date of October 12, 2015.

6. On October 15, 2015, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits as of November 1, 2015.
7. On October 15, 2015, the Claimant submitted the first page of the Verification of Employment (DHS-38) form.
8. On October 21, 2015, the Department received the Claimant's request for a hearing protesting the closure of Food Assistance Program (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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2015), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (July 1, 2015), pp 1-9.

The Claimant was an ongoing FAP recipient when she reported that her daughter was leaving the benefit group and had started new employment. The Department requested verification of the daughter's income and employment. On September 30, 2015, the Claimant submitted copies of her daughter's paycheck stubs, which consist of hand written records of hours worked, earnings received, and payroll withholding. The

Department found these paycheck stubs to be insufficient and sent the Claimant a Verification of Employment (DHS-38) with a due date of October 12, 2015.

The Claimant failed to return the Verification of Employment (DHS-38) in a timely manner. The Department received the first page of this form on October 15, 2015. The Department then notified the Claimant that it would close her FAP benefits as of November 1, 2015.

Based on the evidence and testimony available during the hearing, it is not clear why the September 30, 2015, verification documents were insufficient verification of the daughter's income and employment.

However, Department policy did not prohibit requesting additional verification from the Claimant to clarify the nature of her changing circumstances. On September 30, 2015, the Department sent the Claimant a Verification of Employment (DHS-38) with a due date of October 12, 2015. This form was not returned in a timely manner.

On October 15, 2015, the Claimant submitted the Verification of Employment (DHS-38) form, but only the first page of the form. On October 15, 2015, the Department closed the Claimant's FAP benefits effective November 1, 2015, based on the insufficient paycheck stubs received on September 30, 2015, as indicated on the Notice of Case Action.

The Department will send a negative action when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. Department of Human Services Bridges Administrative Manual (BAM) 130 (April 1, 2014).

Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be reinstated if the client complied with program requirements before negative action date. Department of Health and Human Services Bridges Administrative Manual (BAM) 205 (July 1, 2015), p 1.

This Administrative Law Judge finds that the Claimant did not refuse to provide verification of her daughter's earned income from employment and that she made a reasonable attempt to provide this verification before the negative action date. The Department had sufficient information to accurately determine continuing eligibility. The Department had a duty to seek additional information to clarify the previously unreported income.

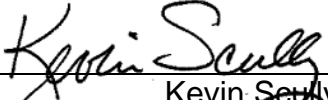
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed the Claimant's Food Assistance Program (FAP) benefits effective November 1, 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. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of November 1, 2015.
2. Re-issue the September 30, 2015, Verification of Employment (DHS-38) for the daughter's employment starting September 1, 2015.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



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

Date Signed: **12/22/2015**

Date Mailed: **12/22/2015**

KS/■

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:

