

**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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████████████████

MAHS Reg. No.: 15-019994
Issue No.: 2000; 3002
Agency Case No.: ██████████
Hearing Date: December 14, 2015
County: Macomb-District 20
(Warren)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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 December 14, 2015, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, back-up hearing facilitator.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) assistance?

FINDINGS OF FACT

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

1. On September 23, 2015, Petitioner applied for FAP benefits (Exhibit A, p. 1).
2. On September 24, 2015, the Department sent Petitioner a Verification Checklist (VCL) requesting, in relevant part, verification of Petitioner's self-employment by October 5, 2015 (Exhibit B, pp. 2-3).
3. Before the deadline, Petitioner submitted a blurry online statement indicating that she was no longer self-employed (Exhibit C, p. 4).

4. On October 20, 2015, the Department sent Petitioner a Notice of Case Action denying her FAP application due to failure to verify requested information (Exhibit D, pp. 5-8).
5. On October 26, 2015, Petitioner filed a timely hearing request disputing the Department's denial of her FAP and Medicaid (MA) applications.

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).

Petitioner filed a hearing request on October 26, 2015 disputing the Department's denial of her FAP and MA applications. At the hearing, the Department testified that Petitioner submitted a FAP application on September 23, 2015 that was denied but she did not submit an MA application until October 30, 2015 and that application was approved. The Department presented an October 30, 2015 Health Care Coverage Determination Notice approving Petitioner for full-coverage MA effective October 1, 2015 (Exhibit E). Petitioner acknowledged receiving the approval notice but testified that since then she had been notified that her MA case was closing. Because any notice sent to Petitioner advising her of her MA closure was sent after she applied on October 30, 2015 and after she filed her October 26, 2015 hearing request, the undersigned lacks authority to review the Department's actions closing her case. Petitioner was advised that she could request a hearing concerning that matter. The hearing proceeded to address Petitioner's FAP issue.

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.

The Department denied Petitioner's September 23, 2015 FAP application because she had failed to verify her self-employment income (Exhibit D). At the hearing, the Department explained that it had information on file that Petitioner was self-employed and, accordingly, it sought to verify the status of her self-employment by asking in the September 24, 2015 VCL that Petitioner provide proof of her self-employment (Exhibit B). When Petitioner provided hand-written documentation that was illegible (Exhibit C), it denied her application.

The Department must verify income that stopped within the 30 days prior to the application date or while the application is pending. BEM 505 (July 2015), p. 13. At the hearing, Petitioner explained that she had been self-employed as a housekeeper but this had ended on April 10, 2015. Because Petitioner no longer had income at the time of application and this income had ended more than thirty days prior to the date of application, Petitioner was not required to verify the income. Therefore, the Department did not act in accordance with Department policy when it denied Petitioner's application for failure to verify.

It is further noted that it is unclear what verification the Department expected Petitioner obtain. The Department is required to tell the client what verification is required and how to obtain it. BAM 130 (July 2015), p. 3. In this case, Petitioner testified that she had advised her worker that she was no longer self-employed and that she could not get written statements from any of the three individuals for whom she provided services because one had died and the other two had left the country. When neither the client nor the local office can obtain verification despite a reasonable effort, the Department must use the best available information and, if no evidence is available, its best judgment. BAM 130 (July 2015), p. 3. Under the circumstances in this case, Petitioner established that she was no longer self-employed as of April 2015. Therefore, no self-employment income should be budgeted in determining Petitioner's FAP income eligibility and allotment.

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 Petitioner's FAP application.

DECISION AND ORDER

Because the Department had not taken any negative action concerning Petitioner's MA case at the time of her October 26, 2015 hearing request, Petitioner's hearing request concerning her MA issue is DISMISSED.

The Department's FAP 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. Reregister and reprocess Petitioner's September 23, 2015 FAP application;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from September 23, 2015 ongoing; and
3. Notify Petitioner in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/17/2015**

Date Mailed: **12/17/2015**

ACE / 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.

