

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

MAHS Reg. No.: 15-022601
Issue No.: 3002
Agency Case No.: ██████████
Hearing Date: January 20, 2016
County: Wayne-District 17
(Greenfield/Joy)

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 January 20, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by ██████████, Hearing Facilitator backup. ██████████ served as Arabic translator.

ISSUE

Did the Department properly deny Petitioner's October 8, 2015 Food Assistance Program (FAP) application for failure to verify requested 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. On October 8, 2015, Petitioner applied for FAP benefits.
2. On October 9, 2015, the Department sent Petitioner a Verification Checklist (VCL) requesting, among other things, verification of 30 days' wages and self-employment income by October 19, 2015 (Exhibit A).
3. On October 26, 2015, Petitioner submitted verifications that included a copy of his 2014 federal income tax return.

4. On October 28, 2015, the Department sent Petitioner a Notice of Case Action advising him that his application was denied because he had failed to verify his earned income and self-employment income (Exhibit B).
5. On December 1, 2015, the Department received Petitioner's request for hearing disputing the Department's actions.

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.

Petitioner disputed the Department's denial of his October 8, 2015 FAP application. The October 28, 2015 Notice of Case Action informed Petitioner that his application was denied because he had failed to submit verification of his self-employment income and employment income.

In the October 9, 2015 VCL, the Department requested, among other things, verification of Petitioner's wages through 30 days of paystubs and verification of self-employment. Self-employment income must be verified at application. BEM 502, p. 6. Self-employment is verified as follows:

Primary source: Income tax return is used provided that (i) the client has not started or ended self-employment, or received an increase/decrease in income, etc., (ii) the tax return is still representative of future income, and (iii) the client filed a tax return.

Secondary source: DHS-431, Self-Employment Statement, with all income receipts to support claimed income.

Third source: DHS-431, Self-Employment Statement, without receipts.

BEM 502, p. 7.

In this case, the Department acknowledged that Petitioner submitted a copy of his 2014 federal tax return showing his self-employment income from metal resale. Petitioner testified that his collection and resale of metal was his only self-employment. Under Department policy, the tax return serves as the primary evidence of self-employment income. The Department presented no evidence to dispute that Petitioner's 2014 self-employment income was not representative of future income. Therefore, the Department erred when it concluded that Petitioner did not provide verification of self-employment income.

At the hearing, the Department pointed out that Petitioner submitted his verifications on October 26, 2015, after the October 19, 2015 VCL due date. Petitioner explained that he brought his documents to the local office on October 19, 2015 but was advised that he had to send them in. Therefore, Petitioner made a reasonable effort to timely submit the requested documents. BAM 130 (July 2015), p. 7. Further, because the verifications were received before the October 28, 2015 Notice of Case Action denying the application was sent out, the Department was required to process the received tax return. See BAM 220 (October 2015), pp. 12, 13 (requiring the deletion of a negative action when the client provides the information necessary to meet the requirement that caused the negative action before the negative action effective date); BAM 115 (October 2015), p. 23 (requiring that the Department reregister a FAP application using the original application date if the client completes the application process after denial and within 30 days of the application date). Therefore, in this case, where Petitioner submitted the verifications before the Department sent him the Notice of Case Action denying the application, the Department could not rely on the verifications being submitted after the VCL due date to deny Petitioner's FAP application.

The Department also relied on the fact that Petitioner failed to verify his employment income in denying his FAP application. The Department may request verification when required by policy, when required as a local office option, or when information regarding an eligibility factor is unclear, consistent, incomplete or contradictory. BAM 130 (July 2015), p. 1. Department policy requires verification of employment income at application. BEM 501 (July 2014), p. 9.

In this case, Petitioner testified that he had never been employed by an employer. At the hearing, the Department acknowledged that Petitioner did not identify any employment or employment income in his October 8, 2015 application or in a prior August 2015 application. The Department could not identify any basis for the its request that Petitioner verify employment. Therefore, the Department did not act in accordance with Department policy when it requested verification of employment income. As such, it could not rely on Petitioner's failure to provide such verification in denying his application.

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 October 8, 2015 FAP application.

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. Reregister and reprocess Petitioner's October 8, 2015 FAP application;
2. Issue supplements to Petitioner for FAP benefits he was eligible to receive but did not from October 8, 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: **1/27/2016**

Date Mailed: **1/27/2016**

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. 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]
[REDACTED]
[REDACTED]