

**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.: 16-000156
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: February 22, 2016
County: MACOMB-DISTRICT 12

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 22, 2016, from Detroit, Michigan. The Petitioner was represented by Mandy Just (Petitioner). The Department was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application effective November 2, 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. On [REDACTED], Petitioner applied for FAP benefits.
2. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL), which was due back by [REDACTED]. Specifically, the VCL requested proof of: (i) Chase checking account ending in -7625; (ii) Chase savings account ending in -0050; (iii) Huntington checking account ending in -5711; and (iv) Fidelity 401K plan. See Exhibit A, p. 4.
3. On [REDACTED], the Department sent Petitioner, in error, a FAP Notice denying her application. See Exhibit A, pp. 1 (Hearing Summary) and 6.

4. On [REDACTED], the Department received the following documentation: (i) Chase checking account ending in -7625; (ii) Huntington checking account ending in -5711; and (iii) Fidelity 401K plan.
5. The Department indicated that Petitioner failed to submit proof of her Chase savings account ending in -0050, whereas Petitioner stated she submitted proof of the account on [REDACTED].
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP application was denied effective [REDACTED]. See Exhibit A, pp. 7-9.
7. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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. BAM 105 (July 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8.

For FAP 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 (July 2015), 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 MDHHS 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 a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

Additionally, BEM 400 addresses the policy regarding assets verifications (i.e., checking/savings accounts and 401k plans). BEM 400 (October 2015), pp. 14-15, 24-25, and 57-62.

In this case, the Department argued that it received all of Petitioner's verification, except for proof of her Chase savings account ending in -0050.

In response, Petitioner testified that she submitted proof of her savings account when she submitted all of her other verifications on [REDACTED]. In fact, Petitioner testified that she recalled obtaining a separate letter from Chase Bank addressing the savings account and submitted it on [REDACTED]. Petitioner did not have a copy of the letter.

Based on the foregoing information and evidence, the Department improperly denied Petitioner's FAP application effective [REDACTED], in accordance with Department policy.

The Department argued that Petitioner failed to submit proof of her savings account (ending in [REDACTED]), whereas Petitioner indicated she did submit the verification before the due date. Nonetheless, policy states that the Department sends a negative action notice 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. BAM 130, p. 7. In this case, the undersigned finds that Petitioner made a reasonable effort to provide verification of her assets on [REDACTED], which was before her time period had elapsed. BAM 130, p. 7. In fact, Petitioner provided testimony in which she indicated that she obtained a separate letter from [REDACTED] addressing the savings account and submitted it on [REDACTED]. Even though the Department indicated that it did not receive the savings verification, the undersigned still finds that Petitioner made a reasonable effort to provide verification of her assets before the time period had elapsed. Because Petitioner made a reasonable effort to provide the verifications before the VCL due date, the Department improperly denied her application in accordance with Department policy. See BAM 130, p. 7.

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 the Department did not act in accordance with Department policy when it improperly denied Petitioner's FAP application dated [REDACTED].

Accordingly, 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. Initiate re-registration and reprocessing of Petitioner's FAP application dated [REDACTED];
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED] ongoing; and
3. Notify Petitioner of its decision.



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

Date Signed: **FEBRUARY 29, 2016**

Date Mailed: **FEBRUARY 29, 2016**

EF / hw

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:

