

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-000826
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: May 12, 2014
County: WAYNE-DISTRICT 49

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, a telephone hearing was held on May 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's witness/Authorized Hearing Representative (AHR), [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included Kim Johnson, Family Independence Manager.

ISSUES

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective [REDACTED], 2014?

Did the Department properly deny Claimant's FAP application effective [REDACTED], 2014, ongoing?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FAP benefits. See Exhibit 1.
2. On [REDACTED], 2014, the Department sent Claimant a Semi-Annual Contact Report ("semi-annual"), which was due back by [REDACTED], 2014. See Exhibit 1.
3. On [REDACTED], 2014, Claimant submitted his semi-annual and marked "no" to the question of whether he had any changes in his earned income. See Exhibit 1.

4. On [REDACTED], 2014, Claimant included with his semi-annual a rental verification and pay stubs (dated [REDACTED], 2013 and [REDACTED], 2012). See Exhibit 1.
5. Effective [REDACTED], 2014, Claimant's FAP benefits closed. See Exhibit 1.
6. On [REDACTED], 2014, Claimant reapplied for FAP benefits and included additional documentation. See Exhibit 1.
7. Effective [REDACTED], 2014, through [REDACTED], 2014, Claimant received expedited benefits in the amount of \$128. See Exhibit 1.
8. On [REDACTED], 2014, the Department sent Claimant a Verification Checklist (VCL), Verification of Employment, and Shelter Verification, which requested verification of Claimant's wages and home rent. See Exhibit 1. The verifications were due back by [REDACTED], 2014. See Exhibit 1.
9. On [REDACTED], 2014, Claimant submitted a shelter verification, pay stubs (dated [REDACTED], 2012 and [REDACTED], 2013), and additional documentation. See Exhibit 1.
10. On [REDACTED], 2014, Claimant submitted a pay stub (dated [REDACTED], 2013) and a letter requesting that the Department mail him back his submitted pay stubs. See Exhibit 1.
11. On [REDACTED], 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were denied effective [REDACTED], 2014, ongoing, due to his failure to submit current income verifications within the past thirty days. See Exhibit 1.
12. On [REDACTED], 2014, Claimant and/or Claimant's AHR filed a hearing request, protesting the Department's action. See Exhibit 1.
13. On [REDACTED], 2014, Claimant also included additional documentation with his hearing request. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to

MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

As a preliminary matter, a review of Claimant's hearing request indicated that he had an AHR. See Exhibit 1. However, it appeared that the AHR was actually Claimant's witness instead. Nevertheless, Claimant's hearing proceed with himself and his witness accordingly.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2014), p. 7. This includes completion of necessary forms. BAM 105, p. 7.

A report is considered complete when all of the sections (including the signature section) on the DHS-1046, semi-annual, are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210 (October 2013), p. 9. The semi-annual must be recorded, data collection updated and eligibility determination and benefit calculation (EDBC) results certified in the Department's system by the last day of the sixth month of the benefit period to affect benefits no later than the seventh month. BAM 210, p. 9. The semi-annual is met by receipt of a completed DHS-1046 and required verifications. BAM 210, p. 9.

If the client indicates his gross earned income has not changed by more than \$100, verification of the past 30 days is not required. BAM 210, p. 9. However, income must be budgeted and EDBC run if a client checks "No" to the questions, but supplies proof of income. BAM 210, p. 9.

If the DHS-1046 is not logged in by the 10th day of the sixth month, the Department will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. BAM 210, p. 11. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month, or the case will close. BAM 210, p. 11. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14.

In this case, Claimant was an ongoing recipient of FAP benefits. See Exhibit 1. On [REDACTED], 2014, the Department sent Claimant a semi-annual, which was due back by [REDACTED], 2014. See Exhibit 1. On [REDACTED], 2014, Claimant submitted his semi-annual and marked "no" to the question of whether he had any changes in his earned income. See Exhibit 1. On [REDACTED], 2014, Claimant included with his semi-annual a rental verification and pay stubs (dated [REDACTED], 2013 and [REDACTED], 2012). See Exhibit 1. [REDACTED], 2014, Claimant's FAP benefits closed. See Exhibit 1.

At the hearing, Claimant testified that he stopped working in [REDACTED] 2013 and that he only received one pay stub for [REDACTED] 2013 (dated [REDACTED], 2013). See Exhibit 1. It was unclear why Claimant did not indicate on the semi-annual that his employment had ended. It should be noted that Claimant testified that he did work at this employer one week prior to this hearing.

The Department testified that the FAP benefits closed effective [REDACTED], 2014 because Claimant failed to provide the proper income verifications. However, the Department testified that it was unsure if a VCL was sent to Claimant requesting verification of any missing pay stubs.

Then, on [REDACTED], 2014, Claimant reapplied for FAP benefits and included additional documentation. See Exhibit 1. Effective [REDACTED], 2014, through [REDACTED], 2014, Claimant received expedited benefits in the amount of \$128. See Exhibit 1. On [REDACTED], 2014, the Department sent Claimant a VCL, Verification of Employment, and Shelter Verification, which requested verification of Claimant's wages and home rent. See Exhibit 1. The verifications were due back by [REDACTED], 2014. See Exhibit 1. On [REDACTED], 2014, Claimant submitted a shelter verification, pay stubs (dated [REDACTED], 2012 and [REDACTED], 2013), and additional documentation. See Exhibit 1. On [REDACTED], 2014, Claimant submitted a pay stub (dated [REDACTED], 2013) and a letter requesting that the Department mail him back his submitted pay stubs. See Exhibit 1. On [REDACTED], 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were denied effective [REDACTED], 2014, ongoing, due to his failure to submit current income verifications within the past thirty days. See Exhibit 1.

Additionally, Claimant's witness testified that she notified the Department that Claimant's employment had ended prior to the [REDACTED] 2014 application. Also, it appeared that Claimant's witness notified a DHS caseworker (not present at the hearing) that Claimant's employment had ended. Nevertheless, the Department testified that the FAP application was denied due to failure to comply with the verification requirements.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130, p. 5. 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. 6.

Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 7.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's FAP benefits effective [REDACTED], 2014, ongoing.

First, on [REDACTED], 2014, Claimant submitted both relevant and non-relevant pay stubs. On [REDACTED], 2014, the most relevant pay stub Claimant submitted was dated [REDACTED], 2013. See Exhibit 1. The submitted pay stub provided all the necessary information, i.e., pay rate, hours worked, etc. Nevertheless, if the Department needed

additional pay stubs, the Department could have sent a VCL requesting such verification. The Department uses the DHS-3503, VCL, to request verification. BAM 130, p. 3. The Department was unsure if a VCL was sent to the Claimant requesting additional pay stubs. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy because it was unclear if a VCL was sent to the Claimant requesting additional verification. As such, the Department improperly closed Claimant's FAP benefits effective [REDACTED], 2014, ongoing.

Second, even though Claimant failed to submit the past 30 days of income verification, he made a reasonable effort to provide the verifications before the time period given has elapsed. BAM 130, p. 6. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14. The current benefit period ended on [REDACTED], 2014 and Claimant made a reasonable effort to submit the verifications on [REDACTED], 2014. Because Claimant made a reasonable effort to submit the verifications before the end of the benefit period, the Department improperly closed the benefits effective [REDACTED], 2014, ongoing. BAM 130, p. 6; and BAM 210, p. 14.

Third, it appears that there is a discrepancy as to whether Claimant's employment had ended. Claimant failed to indicate in the semi-annual that his employment had ended. Nonetheless, Claimant still submitted his pay stubs with the semi-annual and if the Department needed the additional income and/or verification that employment had ended, it could have requested such verification. See BAM 130, pp. 3 and 7.

Finally, it is not necessary to address Claimant's FAP application denial effective [REDACTED], 2014. As stated above, the Department improperly closed Claimant's FAP benefits effective [REDACTED], 2014, based on the semi-annual. Claimant would have not reapplied for the FAP benefits but for the case closure on [REDACTED], 2014. As such, the Department will reinstate Claimant's FAP benefits effective [REDACTED], 2014, ongoing and request any necessary verification for income and/or employment ending. See BAM 130, pp. 3 and 7. The reinstatement of FAP benefits will cover the application period as well.


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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's FAP benefits effective [REDACTED], 2014, ongoing.

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. Reinstate Claimant's FAP case as of [REDACTED], 2014;
2. Begin recalculating the FAP budget for [REDACTED], 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from [REDACTED], 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **5/13/2014**

Date Mailed: **5/13/2014**

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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 48909-07322

EJF / cl

cc:



Wayne-District 49 (Grand River/War)

AH

BSC5-Hearing Decisions

M. Holden

K. Mardyla-Goddard