

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201320928
Issue No: 3002
Case No: [REDACTED]
Hearing Date: February 7, 2013
Macomb County DHS #20

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing received on January 2, 2013. After due notice, a telephone hearing was held on February 7, 2013. The claimant personally appeared and provided testimony. The department witness was [REDACTED].

ISSUES

Whether the department properly determined Claimant's Food Assistance Program (FAP) allotment beginning October, 2012?

FINDINGS OF FACT

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

1. Claimant was receiving FAP at all times relevant to this hearing.
2. Claimant submitted a hearing request to dispute his FAP benefits on January 2, 2013.

CONCLUSIONS OF LAW

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (BRM).

For each hearing not resolved at a prehearing conference, the department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. The DHS-3050 narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

In this case, the claimant identified the issue as the reduction of his food assistance benefits. While the Hearing Summary stated that the benefits before the negative action were \$ [REDACTED] and the benefits after the negative action were \$16, the explanation solely states "Mr. Ciavone applied for Food Assistance and Medical Assistance on 10/30/12. Mr. and Mrs. Ciavone NET income is & [REDACTED] the NET income limit is \$ [REDACTED] Mr. Ciavone receives \$ [REDACTED] monthly as disability income (RSDI)." The only information provided to this Administrative Law Judge as potential exhibits was a copy of the SOLQ report for Mr. Ciavone showing he has a gross income of \$ [REDACTED] in RSDI; and a FAP budget for benefit period 1/1/13 – 1/31/13 showing \$ [REDACTED] in benefits (with \$ [REDACTED] in unearned income, an amount that could not be explained). The department was unable to explain when/how/why the claimant's benefits changed from \$ [REDACTED] to \$ [REDACTED]

Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof and did not provide information necessary to enable this ALJ to determine whether the department followed policy as required under BAM 600. The department must re-budget the claimant's FAP case as they have failed to show the actions were in accordance with department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in determining Claimant's FAP amount.

Therefore, the department's determinations are **REVERSED** and the department is hereby **ORDERED** to redetermine Claimant's FAP benefit amount back to October, 2012 and issue the claimant written notice of the finding. If the Claimant disagrees with the findings, he shall retain a hearing right and can file a hearing request within 90 days of the department's determination.

/s/_____

Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 13, 2013

Date Mailed: February 14, 2013

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SLM/cr

cc:

