

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

IN THE MATTER OF:



Reg. No.: 201335724
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: April 17, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], PATH Case Manager.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for January 2013 and February 2013?

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 is an ongoing recipient of FAP benefits.
2. Claimant's FAP case closed effective December 31, 2012, because she failed to complete the redetermination process, and Claimant filed a hearing request.
3. Claimant reapplied for benefits on January 11, 2013.
4. Claimant filed a hearing request withdrawal on February 26, 2013, indicating that the Department had agreed to review her FAP case and issue supplements.

5. On March 11, 2013, Claimant filed a hearing request, protesting the Department's actions concerning her FAP case.

CONCLUSIONS OF LAW

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

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

In this case, Claimant originally requested a hearing concerning the December 31, 2012, closure of her FAP case and her benefit amount after she reapplied for FAP benefits on January 11, 2013. Claimant signed a Hearing Request Withdrawal on February 26, 2013, because she believed the Department would address her concerns. Claimant filed a new hearing request on March 11, 2013, leading to the instant hearing. At the hearing, Claimant explained that the Department had recalculated her FAP budget for March 2013 ongoing after she withdrew her prior hearing request and, although she was satisfied with her March 2013 ongoing benefits, she was concerned because the Department had not issued supplements for January 2013 and February 2013 FAP benefits she believed she was due.

At the hearing, the Department explained that Claimant's FAP case had closed effective December 31, 2012 because Claimant had not completed her redetermination and she reapplied on January 11, 2013. The Department explained that Claimant had brought documentation to the February 26, 2013, hearing that showed end of employment. The Department treated this new information as a reported change of income and recalculated Claimant's March 2013 ongoing budget, resulting in an increase in FAP benefits for March 2013 ongoing.

On March 11, 2013, Claimant filed a hearing request concerning her FAP case and wrote that she had "cancelled my Feb. 26th hearing per [the caseworkers] saying they would fix my Food Stamps [and] they never did." Thus, the Department was aware that Claimant continued to be concerned regarding her prior FAP benefits.

Because Claimant's request for hearing on March 11, 2013, was more than 90 days after the December 31, 2012, closure of her FAP case for failure to complete the redetermination process, Claimant's hearing request concerning the closure of her case is untimely. See Mich Admin Code, R 400.903. However, the issue of Claimant's FAP benefits for January 2013 and February 2013 following her January 11, 2013 application

is timely. The Department did not present any FAP budgets for those months showing how it calculated Claimant's monthly FAP benefits. Thus, the Department failed to satisfy its burden of showing that it determined Claimant's monthly FAP benefits for January 2013 and February 2013 following the January 11, 2013, application in accordance with Department policy. BAM 600 (February 1, 2013), p 30.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not satisfy its burden of showing that it acted in accordance with Department policy with respect to the calculation of Claimant's FAP benefits for January 2013 and February 2013. Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's FAP budget for January 11, 2013, ongoing in accordance with Department policy;
2. Begin issuing supplements to Claimant for any FAP benefits she was eligible to receive but did not for January 2013 and February 2013; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/26/2013

Date Mailed: 4/26/2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

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

ACE/hw

cc:

