

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201338405
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: May 1, 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 May 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for March 2013 and for May 2013 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 is an ongoing recipient of FAP benefits.
2. On March 1, 2013, Claimant notified the Department of a decrease in his Supplemental Security Income (SSI) benefits and the Department increased Claimant's FAP benefits for April 2013.
3. In connection with a data exchange with the Social Security Administration (SSA), the Department became aware of an increase in Claimant's SSI benefits and consequently recalculated Claimant's FAP budget.

4. On March 25, 2013, the Department sent Claimant a Notice of Case Action informing him that effective May 1, 2013, his FAP benefits would decrease to \$123 because of an increase in his income.
5. On April 1, 2013, Claimant filed a hearing request disputing the Department's calculation of his FAP benefits.

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 1999 AC, Rule 400.3001 through Rule 400.3015.

At the hearing, Claimant clarified that he requested a hearing with respect to two issues: (1) his March 2013 FAP issuance and (2) his May 2013, ongoing, FAP issuance.

March 2013 FAP Issuance

Claimant contends that he reported a decrease in his SSI benefits to the Department, which should have affected his March 2013 FAP benefit, but because the Department delayed processing his change, he did not receive an increase in his FAP benefits until April 2013. The evidence at the hearing established that Claimant did not inform the Department of his decreased SSI benefits until March 1, 2013. Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported. BEM 505 (October 2010), pp 8-9. Because Claimant reported his SSI income change on March 1, 2013, the Department acted in accordance with Department policy when it processed this change to affect his April 2013 FAP benefits, which was the first FAP allotment ten days after the change was reported.

May 2013 Ongoing FAP Issuance

The Department testified that its data exchange with SSA through BENDEX (Beneficiary Data Exchange System) showed an increase in Claimant's SSI for May 2013, ongoing, to \$534 and, consequently, Claimant's FAP budget was recalculated, resulting in a decrease in Claimant's FAP benefits to \$123 for May 1, 2013, ongoing. However, Claimant presented a letter from SSA dated February 25, 2013, stating that beginning February 2013, SSA would withhold \$71 from his monthly SSI payment to recover an overpayment, resulting in monthly SSI payments to Claimant of \$463.35. At the hearing, the Department also presented a Single-Online Query (SOLQ) report, a

document the Department can access to obtain client information from SSA, that also showed that \$71 was withheld by SSA from Claimant's monthly SSI payment.


For purposes of calculating gross income, amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are excluded from the calculation of gross income. BEM 500 (January 1, 2013), p 4. Thus, if \$71 is withheld from Claimant's monthly SSI payment, the Department would have to exclude this amount from the calculation of his gross income, which would consequently affect his FAP benefit amount. In this case, the Department had a copy of Claimant's letter from SSA and access to SOLQ and therefore should have been aware of the discrepancy in the amount of SSI benefits paid to Claimant. Where there is a discrepancy in SSA information, the Department is required to send the DHS/SSA Referral (DHS-3471) to the SSA district office serving the local office area to resolve the discrepancy. BAM 801 (December 2011), p 2. The Department did not do so in this case. Under the facts presented in this case, the Department did not act in accordance with Department policy when it used \$534 as Claimant's SSI income in the calculation of his FAP budget.

DECISION AND ORDER

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department did act in accordance with Department policy in calculating Claimant's March 2013 FAP allotment but did not act in accordance with Department policy when it calculated Claimant's FAP budget for May 1, 2013, ongoing. Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Claimant's March 2013 FAP benefits **AND REVERSED IN PART** with respect to Claimant's May 2013, ongoing, FAP benefits.

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 May 1, 2013, ongoing, in accordance with Department policy and consistent with this Hearing Decision, after verifying amounts withheld by SSA from Claimant's SSI income to recover overpayments;
2. Issue supplements to Claimant for any FAP benefits he is eligible to receive but did not from May 1, 2013, ongoing; 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: 5/7/2013

Date Mailed: 5/7/2013

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:

