

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201341998

Issue No: 3019

Case No: [REDACTED]

Hearing Date: May 22, 2013

Marquette County DHS

**ADMINISTRATIVE LAW JUDGE:** Suzanne D. Sonneborn

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on April 9, 2013. After due notice, a telephone hearing was held on May 22, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an assistance payments supervisor with the department's Marquette County office.

**ISSUE**

Whether the department properly reduced Claimant's Food Assistance Program (FAP) benefits for the benefit period effective May 1, 2013?

**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 a recipient of FAP benefits at all times relevant to this hearing.
2. On April 3, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) informing him that, effective May 1, 2013, his FAP benefits would be decreased from \$577.00 to \$427.00 per month because he or a group member had failed to cooperate with child support requirements.
3. On April 9, 2013, Claimant requested a hearing, contesting the department's reduction of his FAP benefits.
4. On April 10, 2013, the department determined that Claimant's non-cooperation status with the department's Office of Child Support was the

result of a computer coding error. The department thereafter placed Claimant into cooperation with the OCS retroactive to April 1, 2013.

5. On April 10, 2013, the department obtained verification that Claimant's FAP household increased by one member, with the return of the mother of Claimant's children to Claimant's FAP group.
6. On April 29, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) informing him that, effective May 1, 2013, his FAP benefits would be reduced to \$361.00 per month due to an increase in his FAP household size.
7. Despite Claimant's timely request, the department did not continue Claimant's FAP benefits at his former level during the pendency of his hearing request.

### **CONCLUSIONS OF LAW**

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105.

Moreover, clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. The department's philosophy is that families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255. Support includes child support, medical support, and payment for medical care from any third party. For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home.

In the instant case, Claimant is disputing the department's reduction of his FAP benefits from \$577.00 to \$427.00 per month effective May 1, 2013 because he or a group member had failed to cooperate with child support requirements.

At the May 22, 2013 hearing, the department's representative acknowledged that the reduction of Claimant's FAP benefits for the benefit period effective May 1, 2013 due to a failure to cooperate with child support requirements was a department error. The department's representative further testified that, upon receipt of Claimant's hearing request, the department discovered the department error but may not have correctly reinstated Claimant's FAP benefits for the benefit period effective May 1, 2013. However, the department's representative further testified that, independent of the corrected error due to the cooperation with child support requirements, a change in Claimant's FAP household on April 10, 2013 would have required a subsequent recalculation and reduction of Claimant's FAP benefits for the benefit period effective May 1, 2013.

Claimant testified that he did not believe he received the correct FAP benefit amount for the month of May 1, 2013 following the department's correction of error regarding cooperation with child support requirements. Claimant further testified that the department failed to continue his FAP benefits for the benefit period effective May 1, 2013 at the former level until the hearing process concluded when Claimant's timely hearing request sought the continuation of such benefits. The department representative agreed that Claimant's hearing request was timely and acknowledged that it was department error not to have maintained Claimant's FAP benefits at the former level as requested for the benefit period effective May 1, 2013.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the May 22, 2013 hearing, the department improperly reduced Claimant's FAP benefits effective May 1, 2013 based on the department's determination that Claimant or a group member had failed to cooperate with child support requirements. This Administrative Law Judge further finds that, despite Claimant's timely hearing request, the department improperly failed to maintain Claimant's FAP benefits at the former level until the conclusion of the hearing process.

This Administrative Law Judge makes no finding regarding whether the department properly reduced Claimant's FAP benefits on April 29, 2013 to \$361.00 per month for the benefit period effective May 1, 2013 due to an increase in his FAP household size for the reason that this issue was not a part of Claimant's April 9, 2013 hearing request and therefore this Administrative Law Judge has no jurisdiction to hear this issue pursuant to Mich Admin Code R 400.903(1) and 400.906(d).

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly reduced Claimant's FAP benefits effective May 1, 2013 based on the department's determination that Claimant or a group member had failed to cooperate with child support requirements. Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate and redetermine Claimant's FAP benefits for the benefit period effective May 1, 2013 and issue supplement checks for any months Claimant did not receive the correct amount of benefits if he was otherwise entitled to them.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, further decides that the department did not act in accordance with policy in failing to maintain Claimant's FAP benefits at the former level until the conclusion of the hearing process. The department's actions in this regard are therefore **REVERSED** and the department shall immediately issue Claimant supplement checks for the month(s) Claimant did not receive FAP benefits during the pendency of the hearing process.

It is SO ORDERED.

/s/

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

Date Signed: May 24, 2013

Date Mailed: May 24, 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 60 days of the filing of the original request.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, MI 48909-07322

SDS/aca

cc:

