

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201345741
Issue No.: 3003, 3008
Case No.: [REDACTED]
Hearing Date: June 11, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 June 11, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Authorized Hearing Representative (AHR) Case Manager from Training & Treatment Innovations) and [REDACTED] (Claimant). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Oakland County Prosecutor's Office).

ISSUES

- I. Did the Department properly calculate Claimant's Food Assistance Program (FAP) monthly allotment?
- II. Did the Department properly sanction and close Claimant's FAP benefits due to child support noncooperation?

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 active for FAP benefits at all relevant times.
2. On April 11, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which increased her monthly FAP allotment to \$345.00.

3. On April 25, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which reduced her monthly FAP benefits to \$275.00¹ effective June 1, 2013 due to noncooperation with child support requirements.
4. On May 2, 2013, the Department received two requests for hearing filed by Claimant's AHR: (1) challenging the amount of FAP benefits (in this request, Claimant contends that she is owed \$101.00 in FAP for April 2013) and (2) challenging the FAP denial due to a "child support" sanction.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the 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.

There are two issues raised by Claimant in this request for hearing. The first issue involves Claimant's contention that the Department improperly calculated her FAP benefits for April, 2013 and that she is entitled to a \$101.00 supplement.

The Department's computer system known as "Bridges" uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups **with** one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

The Department shall complete either a manually-calculated or Bridges budget to document expenses every time an expense change is reported. BEM 554. The Department must verify the responsibility to pay and the amount of certain expenses. BEM 554. The Department must document verification in the case record. BEM 554. The Department shall not budget expenses that require verification until the verification is provided. BEM 554. The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554. The Department treats subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued **only** if the expense could **not** be verified within 30 days of the application and the local office was at fault. BEM 554.

¹ Claimant's group size was reduced from 3 to 2.

Expenses are used from the same calendar month as the month for which the Department is determining benefits. BEM 554. Expenses remain unchanged until the FAP group reports a change. BEM 554.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

In the instant matter, Claimant provided the Department with a bank statement from December 2012 to show her shelter expenses, but the Department could not accept this as proper shelter verification. On April 8, 2013, the Department received Claimant's completed Shelter Verification (DHS-3688) form which indicated Claimant's total monthly shelter obligation was \$339.00 for rent. At this time, the Department had already budgeted her April 2013 expenses. In order for the Department to budget the April expenses, Claimant would have had to provide the verification on or before April 1st. Claimant cannot expect the Department to use the April 8 shelter verification for April expenses as this verification would be used for the following month (May). Thus, the Department correctly and properly budgeted Claimant's April FAP budget and she is not entitled to an additional \$101.00 for April 2013.

The Administrative Law Judge, based upon the substantial, material and competent evidence, rules that the Department properly determined Claimant's monthly FAP allotment for the month of April 2013.

The second issue involves the Department's determination that Claimant's FAP should be reduced due to a sanction for noncompliance with child support. Department policy provides that 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 (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255.

Department policy states that the custodial parent or alternative caretaker of children 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. BEM 255. Failure to cooperate without good cause results in disqualification. BEM 255. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255.

Here, the Department contends that Claimant was noncompliant with OCS because she failed to respond to correspondence from the Oakland County Prosecuting Attorney's Office concerning the absent parent of her minor child. During the hearing, Claimant, through her AHR, elected not to challenge the Department.

The Administrative Law Judge, based upon the substantial, material and competent evidence, decides that the Department properly sanctioned and closed Claimant's FAP benefits due to child support noncooperation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department acted properly when it determined Claimant's April 2013 FAP allotment and that Claimant is not entitled to a supplemental FAP allotment for that month. This Administrative Law Judge also finds, based on the above Findings of Fact and Conclusions of Law, that the Department acted properly when it sanctioned Claimant and closed her FAP benefits due to noncooperation with child support obligations.

Accordingly, the Department's FAP decisions are **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 14, 2013

Date Mailed: June 17, 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

CAP/aca

cc:

