

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

IN THE MATTER OF:



Reg. No.: 201353675
Issue No.: 3002
Case No.:
Hearing Date: July 18, 2013
County: Oakland County (#04)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Thursday, July 18, 2013, from Detroit, Michigan. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was (Family Independence Specialist).

ISSUE

Whether the Department properly determined the amount of the Claimants Food Assistance Program (FAP) benefits?

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 received ongoing FAP benefits based on a group size of 4.
2. On May 1, 2013, the Department reduced Claimant's FAP benefits due to an increase in income.
3. On April 29, 2013, the Department sent Claimant notice of the reduction.
4. On June 17, 2013, Claimant filed a hearing request protesting the reduction in FAP benefits.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) 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.

A client's FAP benefit for a month is based, in part, on a prospective income determination. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505 (October 2010), p. 6. Each source of income is converted to a standard monthly amount unless a full month's income will not be received. The Department will then use the actual income received or expected in the budget. BEM 505, p. 5. When a group has income changes, the Department is required to adjust the amount budgeted for future pay periods.

If income will start or stop the Department is to use the amount of income actually expected or received in the benefit month and either remove stopped income for future months or continue to use the income if it accurately reflects future income. 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, provided necessary verification was returned by the due date. BEM 505, p. 8. If verification is required or deemed necessary, the Department is to allow the client 10 days from the date the change is reported or the date the verification was requested to provide verification. The change must still affect the correct issuance month, which is the month after the month in which the 10th day after the change is reported if received timely. BEM 505, p. 9. For income increases that result in a benefit decrease, action must be taken and notice issued to the client within 10 days for FAP benefits. The effective month is the first full month that begins after the negative action effective date.

In the present case, on April 29, 2013, Claimant timely reported changes in household income. Employment income started for her husband effective April 25, 2013; and unemployment income stopped effective May 1, 2013. On May 3, 2013, the Department obtained verification that the last partial unemployment check was received on May 1, 2013. The Department completed a budget that included a full month's employment income to affect May's benefits but did not remove the standard monthly unemployment income. Policy provides that when income stops, the Department is to budget the actual received or expected final income in the benefit month. The change must be effective no later than the first allotment issued 10 days after the change was reported and a supplement may be necessary in some cases. BEM 505, p. 8. Here, this was not

done. The Department did not budget the actual unemployment income received for May 2013, but instead budgeted a full month's income. As a result, Claimant's May benefits were substantially reduced. Based on the record, the Department did not establish it acted in accordance with policy when it determined Claimant's FAP benefits for May 2013.

Accordingly, the Department Action is not UPHeld.

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 establish it acted properly when it determined Claimant's FAP allotment for May 2013.

Accordingly, the Department's MA is hereby, **REVERSED**.

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

1. The Department shall rerun the FAP budget for May 2013 using the actual final unemployment income rather than the full month's income; and issue a supplement for loss benefits (if any) if Claimant is otherwise eligible and qualified.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/26/2013

Date Mailed: 7/26/2013

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

MH/hw

cc:

