

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 2013-42889
Issue No.: 3002
Case No.: ██████████
Hearing Date: August 8, 2013
County: Gogebic

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 August 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, County Director, ██████████ FIM, and ██████████, ES.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for the period of March 15, 2013 through March 31, 2013?

Did the Department properly close Claimant's FAP case, effective April 1, 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 received FAP benefits.
2. On April 10, 2013, the Department issued a Notice of Case Action, informing Claimant that he would receive FAP benefits in the amount of \$34.00 for the period of March 15, 2013 through March 31, 2013, and that Claimant's FAP case would close on April 1, 2013 due to net income exceeding the limit and verification of medical expenses not being returned by Claimant. (Exhibit 1, pp. 3, 4)

3. On April 15, 2013, Claimant requested a hearing regarding the Department's action.
4. On April 26, 2013, Claimant requested a hearing disputing the Department's action regarding, in part, the period of April 1, 2013 to April 30, 2013, in which the Department had calculated Claimant's benefits as \$74.00 per month.
5. On June 19, 2013, this Administrative Law Judge heard the matter addressing the Department's action regarding the period of April 1, 2013 to April 30, 2013.
6. On June 26, 2013, this Administrative Law Judge affirmed the action of the Department in its decision to issue Claimant \$74.00 per month for the period of April 1, 2013 to April 30, 2013 and ordered the Department to recalculate Claimant's FAP benefits for May 1, 2013 and ongoing. (See "Hearing Decision" for Reg. No. 2013-47625)

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 1999 AC, Rule 400.3001 through Rule 400.3015.

In the present case, Claimant received FAP benefits. On April 10, 2013, the Department issued a Notice of Case Action, informing Claimant that he would receive FAP benefits in the amount of \$34.00 for the period of March 15, 2013 through March 31, 2013, and that Claimant's FAP case would close on April 1, 2013 due to net income exceeding the limit and verification of medical expenses not being returned by Claimant. On April 15, 2013, Claimant requested a hearing regarding the Department's action. On April 26, 2013, Claimant requested a hearing disputing the Department's action regarding, in part, the period of April 1, 2013 to April 30, 2013, in which the Department had calculated Claimant's benefits as \$74.00 per month. On June 19, 2013, this Administrative Law Judge heard the matter addressing the Department's action regarding the period of April 1, 2013 to April 30, 2013. On June 26, 2013, this Administrative Law Judge affirmed the action of the Department in its decision to issue Claimant \$74.00 per month for the period of April 1, 2013 to April 30, 2013 and ordered the Department to recalculate Claimant's FAP benefits for May 1, 2013 and ongoing.

With regard to April 1, 2013 and ongoing, the Department, in its Notice of Case Action stated that Claimant's income had exceeded the limit and that Claimant did not return verification of medical expenses. However, the Verification Checklist of March 20, 2013 (Exhibit 1, p, 10) does not request verification of specific medical expenses, and

the Department acknowledged in its Hearing Summary that Claimant had submitted medical receipts, so the Department would not have been correct if it had closed Claimant's case for the sole reason of failing to return verification, as the request for verification was vague and open-ended.

As to the issue of exceeding the income limit as of April 1, 2013, the Department recalculated Claimant's April 2013 benefits to be \$74.00 per month. (See Exhibit 1, p. 77.) As mentioned previously, the Department's action of calculating benefits of \$74.00 per month was affirmed in the Hearing Decision of Reg. No. 2013-47625, issued on June 26, 2013. Since the Department had reversed its decision with regard to April of 2013, finding that Claimant's income did not exceed the limit, the Department was not correct in its initial decision to close Claimant's case, effective April 1, 2013, due to excess income.

In addition, the Department's Notice of Case Action indicates that Claimant was entitled to \$34.00 in FAP benefits for the period of March 15, 2013 through March 31, 2013. (Exhibit 1, p. 3) However, the Department's budget found on page Exhibit 1, p. 73 shows a medical deduction of \$551.00, which does not appear to be consistent with the allowable medical expenses found at Exhibit 1, p.13. See BEM 554. Since the Department did not sufficiently substantiate its budget, it cannot be found that the Department was correct in its calculation of Claimant's FAP benefits for the period of March 15, 2013 through March 31, 2013.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, the Administrative Law Judge concludes that the Department improperly calculated Claimant's FAP benefits and improperly closed Claimant's FAP case.

It is noted that in the request for hearing, Claimant marked all boxes for all benefits. Claimant's requests for hearing regarding other programs were addressed in hearings in other registration numbers heard on this date and on June 19, 2013.

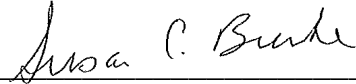
DECISION AND ORDER

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 act properly.

Accordingly, the Department's FAP decision is REVERSED for the reasons stated within the record.

THE DEPARTMENT SHALL BEGIN THE PROCESS OF THE FOLLOWING STEPS WITHIN TEN DAYS OF THE MAILING OF THIS ORDER:

1. Initiate recalculation of Claimant's FAP benefits for the period of March 15, 2013 through March 31, 2013.
2. Initiate reinstatement of Claimant's FAP case, effective April 1, 2013 and ongoing, if the Department has not already done so.
3. Issue FAP supplements for any missed or increased payment, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 16, 2013

Date Mailed: August 16, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2013-42889/SCB

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

SCB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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