

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-65707
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: October 22, 2013
County: Bay

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on October 22, 2013, from [REDACTED], Michigan (Bay County). Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], JET Worker and [REDACTED], PATH coordinator.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefit allotment?

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 receiving \$ [REDACTED] per month in Food Assistance Program benefits.
2. The Department determined that Claimant was being over issued FAP benefits and initiated a recruitment process to recoup \$ [REDACTED] per month (\$ [REDACTED] in over issued Food Assistance Program benefits for the months of November, December 2012, January and February 2013 stating that Claimant was supposed to receive \$ [REDACTED] per month and FAP benefits.
3. On February 20, 2013, hearing was held which resulted in the Department initiated the recruitment process in the amount of \$ [REDACTED]

4. Claimant received \$ [REDACTED] and FAP benefits for the month of March 2013, \$ [REDACTED] and FAP benefits for the month of April 2013, \$ [REDACTED] in May 2013, \$ [REDACTED] in July 2013, \$ [REDACTED] in August 2013, \$ [REDACTED] in September 2013 and is scheduled to receive \$ [REDACTED] and FAP benefits and October 2013. (Department Exhibit 21).
5. Claimant's [REDACTED] is under age [REDACTED] and [REDACTED] with her, so Claimant, her [REDACTED] and her [REDACTED] must all be on one Food Assistance Program group per Department policy.
6. The Department caseworker determined that the Claimant's [REDACTED] family independence program grant was not included in the April 2012 budget for FAP benefits with an agency error of \$ [REDACTED] in over issued Food Assistance Program benefits. (Department Exhibit 19 – 20).
7. On June 17, 2013, the Department caseworker found out that Claimant's daughter had one job that ended and a second job begin. (Department Exhibit 19 – 20).
8. The Department caseworker sent out to Claimant a DHS-38's Employment Verification Checklists for Claimant's [REDACTED] to verify her income. (Department Exhibit 19 – 20).
9. An August 8, 2013, the Department caseworker updated Claimant's case to reflect income for Claimant's [REDACTED] as a mandatory group member and also determined that Claimant was in non-cooperation with the [REDACTED] and thus would be excluded from the Food Assistance Program group. (Department Exhibit 19 – 20).
10. On August 8, 2013, the Department caseworker sent Claimant notice that her Food Assistance Program benefits would be \$ [REDACTED] per month for the month of September 1 – 3, 2013 with \$ [REDACTED] being withheld to pay in over issuance for a total of \$ [REDACTED] and net monthly benefit. (Department Exhibit 19 – 20).
11. On August 13, 2013, the Department caseworker sent Claimant notice that her Food Assistance Program benefits would be decreased to \$ [REDACTED] per month because her shelter deduction amount had changed because shelter expense had changed or income had changed. The Claimant's net unearned income among had changed and the net earned income amount had changed with \$ [REDACTED] being withheld to repay over issuance. (Department Exhibit 19 – 20).
12. On August 21, 2013, the Department caseworker sent Claimant notice that her Food Assistance Program benefits would be increased to \$ [REDACTED] per month with \$ [REDACTED] of the benefits being withheld to repay the over issuance. (Department Exhibit 19 – 20).

13. On August 21, 2013, Claimant turned in an adjustment notice from MSHDA stating that there were changes to Claimant housing for August and September 2013. The department decided it was too late to affect August 2013 Food Assistance Program benefits but she made a change for September 2013. (Department Exhibit 19 – 20).
14. On August 22, 2013, Claimant filed a request for hearing to contest the Department's determination of her Food Assistance Program benefit allotment stating that her food assistance amount of benefits is wrong because her food group did not have that income.
15. On August 27, 2013, the Department received a verification of employment form from Claimant's [REDACTED] which indicated that she was receiving \$ [REDACTED] per hour and would be expected to work 25 hours per week as a retail aide.
16. On August 28, 2013, the Department caseworker sent Claimant notice that her Food Assistance Program benefits would be increased to \$ [REDACTED] per month with \$ [REDACTED] of the benefits of being withheld to repay over issuance effective September 1 – September 30, 2013.
17. On August 28, 2013, Claimant came into the office to discuss her reduced Food Assistance Program benefits stating that the Department's assessment for benefits was incorrect. The worker ran another budget and determined that Claimant's Food Assistance Program benefits again changed because the Claimant's family independence program benefits were included in the budget assessment.
18. On September 16, 2013, the caseworker changed Claimant's [REDACTED] income to the [REDACTED] per DHS liaison, which meant that any income she received from that job would not be considered earned income for purposes of Food Assistance Program benefits eligibility.
19. On October 8, 2013, the Department caseworker determined that for the month of July 2013 Claimant was eligible for \$ [REDACTED] in Food Assistance Program benefits, but received \$ [REDACTED] and was always supplemented \$ [REDACTED] due to the fact that the [REDACTED] was being included as income when it was actually a part of the [REDACTED] program which is excluded income. (Department Exhibit 19 – 20).
20. On October 8, 2013, the caseworker determined that client was issued \$ [REDACTED] for August 2013 but was owed \$ [REDACTED] and needed to be given a supplement of \$ [REDACTED] due to the fact that the [REDACTED] was being budgeted as income when it was actually [REDACTED] program, which is excluded income. (Department Exhibit 19 – 20).

21. On October 22, 2013, the caseworker generated budget for July 1, 2013 – August 31, 2013 which indicated that Claimant should receive \$ [REDACTED] each month in Food Assistance Program benefits with a recoupment amount of \$ [REDACTED] being withheld for a total net benefit amount of \$ [REDACTED] which should have been issued to Claimant. (Department Exhibit 25).
22. On October 22, 2013, the Department caseworker generated a budget for the benefit period of September 1, 2013 – September 30, 2013 which indicated that Claimant should receive \$ [REDACTED] for the month in Food Assistance Program benefits with a recoupment amount of \$ [REDACTED] being withheld for a total net benefit amount of \$ [REDACTED] which should be issued to Claimant. (Department Exhibit 27).
23. On October 22, 2013, the Department caseworker generated a budget for the benefit period of October 1, 2013 forward which indicated that Claimant should receive \$ [REDACTED] per month in Food Assistance Program benefits with a recoupment amount of \$ [REDACTED] being withheld for a net total benefit amount of \$ [REDACTED] which should be issued to Claimant. (Department Exhibit 29).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, the department caseworker conceded on the record that she improperly counted the [REDACTED] as earned income for Claimant's [REDACTED]. Because the budget figures do not match the figures in the caseworker notes and testimony was very confusing and convoluted, this Administrative Law Judge is unable to determine the exact amounts of Food Assistance Program benefits that Claimant was entitled to for the months of April 2013 forward.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it made Claimant's FAP benefits eligibility determination for the months of April 2013 forward.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-determine Claimant's eligibility for FAP benefits for the months of April, May, June, July, August and September 2013.
2. If Claimant is otherwise eligible, pay to Claimant any benefits that she has not received as a result of the redetermination.
3. Notify Claimant in writing of her eligibility for FAP benefits for each month from April-October 2013.

/s/
Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/28/13

Date Mailed: 10/30/13

NOTICE OF APPEAL: 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.

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).

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

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

LYL/tb

cc:

