

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-1267
Issue No(s): 3003
Case No.: [REDACTED]
Hearing Date: October 31, 2013
County: Calhoun

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, telephone hearing was held on October 31, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly determine the Claimant's monthly Food Assistance Program (FAP) 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. The Claimant was an ongoing recipient of FAP benefits.
2. On September 14, 2013, the Department issued a Notice of Case Action to the Claimant stating that the monthly FAP allotment would decrease to \$ [REDACTED] effective October 1, 2013. (Exhibit A, pages 1-3)
3. On September 27, 2013, the Claimant filed a hearing request, contesting the amount of the monthly FAP allotment and included updated shelter expense verification. (Exhibit 1, pages 1-7)
4. The Claimant's rent increased effective October 1, 2013. (Exhibit A, page 5)

5. On September 30, 2013, the Department issued a Notice of Case Action to the Claimant stating that the monthly FAP allotment would increase to \$ [REDACTED] effective October 1, 2013. (Exhibit A, pages 4-6)

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Additionally, in calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550 For FAP, the gross amount of current SSA-issued SSI is counted as unearned income. BEM 503 Some types of FIP and RCA penalties, require budgeting of cash assistance for FAP, even when not received. See BEM 233A, BEM 233C, BEM 255 BEM 503 and BEM 550.

On September 14, 2013, the Department issued a Notice of Case Action to the Claimant stating the monthly FAP allotment would decrease to \$ [REDACTED] effective October 1, 2013. (Exhibit A, pages 1-3) However, on September 27, 2013, the Claimant filed a hearing request, contesting the amount of the monthly FAP allotment. The Claimant asserted that the income budgeted was incorrect and included updated shelter expense verification. (Exhibit 1, pages 1- 7) The Claimant's rent increased effective October 1, 2013. (Exhibit A, page 5)

The Department reviewed the Claimant's FAP case and updated the budgeted shelter expense based on the verification of the increase in the Claimant's rent. The Department also determined that the income was correctly calculated, \$ [REDACTED]/month gross SSI, \$ [REDACTED] month from the quarterly supplement check of \$ [REDACTED] and \$ [REDACTED] from the FIP sanction against a FAP group member. Additionally, there was a statewide reduction in the heat and utility standard beginning October 1, 2013. On September 30, 2013, the Department issued a Notice of Case Action to the Claimant stating the monthly FAP allotment would increase to \$ [REDACTED] effective October 1, 2013. (Exhibit A, pages 4-6)

Regarding the income calculation, the Claimant did not contest the SSI amounts of \$ [REDACTED]/month gross and \$ [REDACTED] month from the \$ [REDACTED] supplement check. The Claimant disputes that the FIP sanction should be in effect against the other FAP group member. However, there is no jurisdiction to review the other individual's FIP case within the scope of this hearing.

The Claimant noted that this Eligibility Specialist is the first one to listen to her about an additional \$ [REDACTED] that is being paid in housing costs due to a recoupment. (Claimant

Testimony) The Eligibility Specialist just I earned of this expense and is obtaining verification from the housing commission as well as clarification as to whether this expense can be counted in the FAP budget. (Eligibility Specialist Testimony)

The Claimant also stated it was hard to live on the prior FAP allotment and it will be next to impossible now that the allotment has decreased by about \$ [REDACTED]. However, the evidence shows that the Department has correctly determined, re-determined and is still gathering additional information to re-consider the Claimant's FAP allotment that went into effect October 1, 2013, based on the information received as it becomes available.

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

acted in accordance with Department policy when it determined the Claimant's monthly FAP allotment.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 6, 2013

Date Mailed: November 6, 2013

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

CL/sw

cc:

