

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-1462  
Issue No(s): 3003  
Case No.: [REDACTED]  
Hearing Date: November 6, 2013  
County: Washtenaw

**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, a telephone hearing was held on November 6, 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] Assistance Payments Supervisor, and [REDACTED] Eligibility Specialist.

**ISSUE**

Did the Department properly calculate 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. On September 14, 2013, the Department issued a Notice to the Claimant regarding his FAP case.
2. On September 23, 2013, the Claimant filed a Request for Hearing contesting FAP calculation, in part noting he has medical expenses.

**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, BEM 550, 554, and 556 address the FAP budget. Certain medical expenses and shelter costs are allowable. BEM 554.

In this case, the Department failed to provide a copy of the Notice of Case Action issued to the Claimant or of the FAP budget that was utilized in determining the Claimant's monthly FAP allotment. On the hearing summary, the Department indicated that the decrease in the Claimant's monthly FAP allotment was due to policy changes that changed the standard deduction and the excess shelter deduction. These types of mass, statewide policy changes are not appealable issues.

However, the Claimant's hearing request and testimony indicate he contests the Department's failure to include living costs, such as the correct monthly rent, the need to purchase specialty foods, and other medical costs in the FAP budget. The Claimant asserted he was not been able to get a worker to talk about his medical costs and that his rent is \$ [REDACTED]. The Claimant testified he has been trying to talk with a worker about this for a while prior to filing the hearing request. The Claimant further indicated that when an interview was eventually completed several months back, the worker did not call him to the back and instead spoke with him briefly through a window to the lobby and did not ask him anything about his living costs.

There is jurisdiction to review issues relating to the calculation of the Claimant's monthly FAP allotment that were not based on the mass, statewide policy changes.

The Assistance Payments Supervisor testified that certain out of pocket medical expenses are allowable in the FAP budget, but the expenses for specialty foods would be excluded. This is consistent with the BEM policy that lists allowable medical expenses. BEM 554, 7-1-2013, Pages 9-10 of 29.

The Department witnesses pulled up the Claimant's FAP budget on the computer in the hearing room during the telephone hearing proceedings. The testimony regarding the figures utilized indicate that no housing cost was included in the September 2013 budget, only \$ [REDACTED] was budgeted for housing cost as of October 15, 2013, and no medical expenses were included in either budget. The Department did not provide sufficient evidence to establish that the Claimant was given the opportunity to provide information regarding his housing costs and any allowable medical costs for the September 2013 FAP budget nor why only \$ [REDACTED] was utilized for housing cost as of October 15, 2013, given the Claimant's testimony that his rent is \$ [REDACTED].

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 calculated the Claimant's monthly FAP allotment.

**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. Recalculate the Claimant's FAP budget retroactive to September 2013 in accordance with Department policy.
2. Issue the Claimant any supplement that he may thereafter be due



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

Date Signed: November 12, 2013

Date Mailed: November 12, 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/las

cc:

