

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

IN THE MATTER OF:

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Reg. No.: 20141732
Issue No.: 3002
Case No.: ██████████
Hearing Date: October 31, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 October 31, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistance Payment Supervisor, and ██████████ Payment Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective October 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 was an ongoing recipient of FAP benefits.
2. On September 14, 2013, the Department sent Claimant a Notice of Case Action notifying him that effective October 1, 2013, his monthly FAP benefits were decreasing to \$37.
3. On September 24, 2013, Claimant filed a request for hearing disputing the Department's action and noting that his rent was increasing effective October 1, 2013.

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, at the hearing, the Department testified that the only change in Claimant's FAP budget was the decrease in the standard heat and utility standard from [REDACTED] effective October 1, 2013, as a result in change in Department policy. RFT 255 (October 2013), p. 1. An annual FAP standard update is a mass update that affects all FAP cases. BAM 220 (July 2013), p. 5. A client's request for a hearing regarding the issue of a mass update required by state or federal law is not granted unless the reason for the request is an issue of incorrect computation of program benefits or patient-pay amount. While Claimant was not eligible for a hearing with respect to the change in the standard heat and utility standard that resulted in a decrease in his FAP benefits, Claimant also noted in his hearing request filed on September 24, 2013, that his rent was increasing effective October 1, 2013. Therefore, Claimant's hearing proceeded to address whether the rent increase should have been taken into consideration in the October 2013 FAP budget.

At the hearing, Claimant testified that his rent increased from [REDACTED] effective October 1, 2013, and then increased to [REDACTED] effective November 1, 2013. The Department acknowledged that Claimant submitted to the Department on October 15, 2013, a letter from the Michigan State Housing Development Authority (MSHDA). This letter indicated that Claimant's rent was increasing to [REDACTED] effective November 1, 2013, through September 30, 2014. The Department testified that Claimant's increased rent would be considered for Claimant's November 2013 ongoing FAP budgets. However, Claimant testified that he had also received a letter from MSHDA on September 9, 2013, showing a rent increase effective October 1, 2013, but he had not provided this letter to the Department because he was not asked to do so and because a Department employee had advised him that he only needed to submit the most recent letter from MSHDA.

Department policy provides that changes that result in an increase in the household's benefits must be effective no later than the first allotment issued ten days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220 (July 2013), p. 5-6. The evidence in this case established that Claimant first reported in October rent increase with his September 24, 2013 request for hearing.

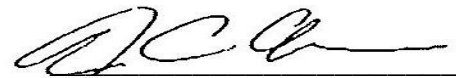
For an increase in rent reported on September 24, 2013, the first FAP allotment ten days after September 24, 2013, would be the November 2013 FAP allotment. Because the reported rent increase for November 2013 should affect Claimant's November FAP allotment, the fact that the Department did not request verification of the October 2013 rent increase ultimately would not affect the calculation of Claimant's FAP benefits for November 2013 ongoing.

The calculation of Claimant's FAP benefits for November 1, 2013, ongoing is not addressed in this Hearing Decision. Claimant is advised that he may request a hearing if he is not satisfied with his November 2013 ongoing FAP benefits.

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 did not consider any increased shelter expenses in calculating Claimant's October 2013 FAP benefits.

DECISION AND ORDER

Accordingly, the Department's FAP decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 7, 2013

Date Mailed: November 7, 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

ACE/tm

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