

**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.: 20143396  
Issue No.: 3002  
Case No.: ██████████  
Hearing Date: November 12, 2013  
County: Wayne (19)

**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 November 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's daughter and authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for October 1, 2013, ongoing?

**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 is an ongoing recipient of FAP benefits.
2. In connection with a change in the heat and utility standard under Department policy, the Department recalculated Claimant's FAP budget.
3. On September 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that, effective October 1, 2013, her monthly FAP benefits were decreasing to \$128.

4. On September 25, 2013, Claimant filed a request for hearing disputing the Department's actions.

### **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 September 14, 2013, Notice of Case Action sent to Claimant notified her that her monthly FAP benefits would be reduced to \$128 beginning October 1, 2013. Claimant requested a hearing to dispute this calculation, alleging that her expenses were not properly considered.

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 \$575 to \$553 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. BAM 600 (July 2013), p. 5. 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 her FAP benefits, Claimant also noted in her hearing request filed on September 25, 2013, that her expenses were not being properly considered. Therefore, the hearing addressed her concern that her expenses were not being properly budgeted.

Because the Department did not provide the relevant FAP budget in its hearing packet, the budget in the September 14, 2013, Notice of Case Action was reviewed during the hearing. The Department testified that Claimant's sole income was her \$1042 in Retirement, Survivors and Disability Income (RSDI) benefits, that she was the sole member of her FAP group, and that she was a Senior/Disabled/Veteran (SDV) member of her FAP group. The AHR verified all this information.

The AHR was concerned about the expenses taken into consideration in the calculation of Claimant's FAP budget. Because Claimant did not have any earned income, she was eligible for the following deductions under Department policy:

- a standard deduction of \$151 based on her one-person group size (RFT 255 (October 1, 2013), p. 1; BEM 556 (July 2013), p. 4);
- an excess shelter deduction, which takes into account Claimant's \$543.81 in monthly housing expenses and the \$553 heat and utility standard that applies to all FAP recipients regardless of actual utility expenses and group size (RFT 255, p. 1; BEM 554 (July 2013), pp. 1, 12-15); and
- expenses for child care, child support and medical expenses in excess of \$35 (BEM 554 (July 2013), p. 1).

The AHR confirmed that Claimant's monthly housing expenses totaled \$543.81, and that she had no day care or child support expenses. While the AHR testified that Claimant had out-of-pocket medical expenses, she admitted that no documentation of these expenses had been submitted to the Department.

A review of Claimant's FAP budget, based on the information available to the Department at the time the budget was prepared, shows that the Department properly calculated Claimant's monthly net income of \$239. Based on net income of \$239 and a FAP group size of one, the Department acted in accordance with Department policy when it determined Claimant was eligible for monthly FAP benefits of \$128. BEM 556 (July 2011); RFT 260 (October 2013), p. 3.

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 calculated Claimant's monthly FAP benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: November 15, 2013

Date Mailed: November 15, 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]