

**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.: 2014-4145
Issue No.: 3002
Case No.: ██████████
Hearing Date: November 7, 2013
County: Wayne (82-55)

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 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
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ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective 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 was an ongoing recipient of FAP benefits.
2. The Department recalculated Claimant's FAP benefits to exclude her oldest child from her group.
3. On September 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were decreasing to \$587 effective October 1, 2013.
4. On September 27, 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, although the Department did not provide the relevant Notice of Case Action, the evidence at the hearing established that Claimant's FAP group size was reduced from six to five, and her FAP benefits decreased from \$763 to \$587 monthly, effective October 1, 2013. Claimant requested a hearing to dispute the Department's calculation of her FAP budget.

The Department provided a FAP net income budget showing the figures and information used to calculate Claimant's monthly FAP benefits. Claimant confirmed the household's unearned income of \$1,448 [consisting of \$710 monthly Supplemental Security Income (SSI) benefits and \$14 monthly State SSI Payments (based on quarterly \$42 payments) received by ██████████] and the household's monthly rent of \$650. Claimant also confirmed that she did not have child support payments or day care expenses and that she had not submitted verification of any out-of-pocket medical expenses incurred by ██████████, the two disabled individuals in her household.

However, Claimant disputed the Department's determination that there were only five eligible FAP members in her group. Claimant had six members in her household: herself and her five children. The Department explained that Claimant's oldest child, ██████████ was removed from her FAP group because she was not an eligible FAP group member based on her student status. Students between age 18 and 49 enrolled half-time or more in a vocational school or college are not eligible for FAP benefits unless they meet one of the eligibility criteria outlined in policy, which includes participation in a work-study program, employment for at least 20 hours weekly, being mentally or physically unfit to work, or caring for a minor child. BEM 254 (July 2013), pp. 3-4.


In this case, Claimant denied that her child was in college. The Department testified that Claimant had identified her daughter as a college student but provided no documentation to support its assertion. Thus, the Department failed to support its burden of showing that it acted in accordance with Department policy when it reduced Claimant's group size, and, consequently, her FAP benefits based on the smaller group size.

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 Claimant's FAP budget for October 1, 2013, ongoing to include Claimant's daughter, Latrina, as an eligible member of the FAP group; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing.


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

Date Signed: November 12, 2013

Date Mailed: November 13, 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.

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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/pf

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