

**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.: 20146130
Issue No.: 3002
Case No.: ██████████
Hearing Date: November 14, 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 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Manager.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

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 August 27, 2013, Claimant applied for FAP benefits.
2. On September 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that she was approved for \$53 for FAP benefits for September 2013 and \$50 in monthly FAP benefits for October 1, 2013, ongoing.
3. In connection with Claimant's Adult Medical Program, the Department became aware that Claimant's shelter expenses had decreased.
4. On September 30, 2013, the Department sent Claimant a Verification Checklist requesting verification of shelter expenses.

5. On October 9, 2013, Claimant timely responded to the VCL with a statement showing that she paid \$100 in monthly rent.
6. After recalculating Claimant's FAP budget to include the decreased rent, the Department sent Claimant an October 10, 2013, Notice of Case Action notifying her that her FAP benefits would decrease to \$24 monthly effective November 1, 2013.
7. On October 16, 2013, Claimant filed a request for hearing concerning the Department's actions to her FAP benefits, noting that she had 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, Claimant requested a hearing concerning her FAP benefits. In a September 18, 2013 Notice of Case Action, the Department approved Claimant for [REDACTED] in FAP benefits for September 2013 and [REDACTED] in monthly FAP benefits for October 1, 2013, ongoing. After it became aware that Claimant's monthly rent had decreased from [REDACTED] to [REDACTED]0, it recalculated her FAP budget and sent her an October 10, 2013 Notice of Case Action notifying her that her FAP benefits were decreasing to [REDACTED] monthly effective November 1, 2013.

The Department presented budgets showing the calculation of Claimant's FAP budget for September 2013 and for November 1, 2013, ongoing. At the hearing, Claimant verified the following information used to calculate her FAP benefits: that she was the sole member of her FAP group, that she was not a senior/disabled/veteran (SDV) member of the group, that her monthly rent had decreased from \$[REDACTED], and that she had no day care or child support expenses. The evidence at the hearing established that Claimant had ongoing monthly medical expenses. However, a deduction for monthly verified, out-of-pocket medical expenses exceeding [REDACTED] is available only for expenses incurred by an SDV member of the FAP group. BEM 554 (October 2012), pp. 1, 6-9. Because Claimant is not an SDV group member, she is not eligible for a deduction for medical expenses.

The September 2013 FAP budget showed monthly earned income of \$1195. The Department testified that it relied on the following pay information in calculating Claimant's gross monthly earnings: (i) ██████ paid on August 2, 2013, which was Claimant's first paycheck; (ii) ██████ paid on August 16, 2013; (iii) ██████ paid on August 30, 2013; and (iv) ██████ paid on September 13, 2013. The calculation of Claimant's gross monthly income, based on her average biweekly pay multiplied by 2.15 in accordance with Department policy, does not result in gross monthly income of \$█████. See BEM 505 (July 2013), pp. 7-8. Furthermore, there was a decrease in the earned income used in the November 1, 2013, ongoing budget, and it appears, based on the benefit issuance for October 2013, that the Department also used this decreased amount for the October 2013 budget. The Department was unable to explain the reason for this decrease. Because the Department could not explain the calculation of Claimant's gross monthly earned income, the Department has failed to satisfy its burden of showing that it calculated Claimant's monthly FAP allotment in accordance with Department policy.

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 Claimant's FAP benefits for August 27, 2013, when Claimant applied for FAP benefits, ongoing.

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 August 27, 2013, ongoing;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 27, 2013, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



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]