

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-6250
Issue No(s): 3003
Case No.: [REDACTED]
Hearing Date: November 14, 2013
County: Kent

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, telephone hearing was held on November 14, 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] Eligibility Specialist, and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance Program (FAP) monthly 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. The Claimant is an ongoing recipient of FAP benefits.
2. On August 13, 2013, the Department issued a Redetermination packet to the Claimant to complete and return by September 3, 2013. (Exhibit A, pages 4-7)
3. The Claimant completed and returned the requested Redetermination packet and provided payroll check stubs. (Exhibit A, pages 4-11)
4. The Department re-calculated the Claimant's FAP budget based on the updated income information, resulting in a decrease in the monthly allotment.
5. On September 16, 2013, the Department issued a Notice of Case Action to the Claimant, in part, stating FAP was approved with a monthly allotment of \$ [REDACTED] per month starting October 1, 2013. (Exhibit A, pages 14-17)

6. On October 7, 2013, the Claimant filed a request for hearing contesting the Department's action regarding FAP.

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. Gross income amounts are utilized in prospecting income. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. Amounts received weekly are multiplied by 4.3. BEM 505.

A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 For non-income changes, the Department is to complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. The effective date of reported and verified changes is addressed in BAM 220, including specific examples of changes in housing costs for FAP cases. BAM 220.

The Claimant disputes the income and housing cost figures utilized in the FAP budget. The Claimant testified that the overtime reflected in the submitted payroll check stubs was unusual and the hours will decrease. The Claimant also explained that she moved August 1, 2013, and rent increased from \$ [REDACTED] per month to \$ [REDACTED] per month. The Claimant stated she submitted a copy of the new lease to another Department worker around the first week of August.

The Family Independence Manager testified that the Department utilized the updated income information from the payroll check stubs the Claimant submitted with the Redetermination in recalculating the FAP budget. The Family Independence Manager acknowledged that if overtime hours are unusual they are not included in projecting income. In this case, the Family Independence Manager stated the overtime appeared to be usual because some overtime hours were included on all four of the submitted payroll check stubs. However, it was confirmed that the newer income verification documentation the Claimant showed the Department during the hearing, which is from October 2013, will be utilized to re-calculate the FAP budget for future benefits. The Family Independence Manager also testified that no new housing expenses were reported or verified for the budget at issue in this case. The Family Independence Manager testified that this Department of [REDACTED] office has electronic case filing, so any

documentation received should be in there. The Department witnesses credibly testified they did not see a copy of the Claimant's new lease in the Department's computer system. Accordingly, the prior housing cost of \$[REDACTED] was continued in the FAP budget for the redetermination. The decrease in the Claimant's monthly FAP allotment resulted from the change in verified income.

The Department properly re-calculated the Claimant's FAP budget based on the updated income verifications received with the Redetermination. Overtime hours were included on all four submitted pay check stubs. (Exhibit 1, pages 8-11) Accordingly, the overtime hours were considered in prospecting income for the FAP budget. It is also noted that on the Redetermination, the Claimant reported a new address but did not report any change in her housing expenses. (Exhibit 1, pages 6-7) There was insufficient evidence to establish that the Claimant had reported and provided verification of the increase in housing costs to the Department when the FAP budget was re-calculated for the redetermination.

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 the Claimant's monthly FAP allotment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: November 21, 2013

Date Mailed: November 21, 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:

