

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-6255  
Issue No(s): 3003  
Case No.: [REDACTED]  
Hearing Date: November 13, 2013  
County: Macomb-12

**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 13, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED] Grandmother. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED] Eligibility Specialist.

**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. The Claimant's FAP case was due for re-determination in September 2013.
3. The Claimant has been receiving unemployment benefits of \$ [REDACTED] bi-weekly since June 2013 that had not been included in the FAP budget.
4. On September 30, 2013, the Claimant called the Department and reported paying \$ [REDACTED] per month for rent.
5. On October 4, 2013, the Department received a requested verification of the shelter expense.

6. On October 5, 2013, the Department issued a Notice of Case Action to the Claimant stating her monthly FAP allotment would decrease to \$ [REDACTED] effective November 1, 2013. (Exhibit 1)
7. On October 7, 2013, the Department issued a Notice of Case Action to the Claimant stating her monthly FAP allotment would increase to \$ [REDACTED] per month effective November 1, 2013. (Exhibit 10)
8. The Claimant reported medical expenses to the Department and the Department advised that receipts from actual expenses would be needed to include them in the FAP budget.
9. On October 15, 2013, the Claimant filed a request for hearing contesting the Department's action on her FAP case.

### **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. For FAP, Bridges counts the gross amount of current SSA-issued SSI as unearned income. Similarly, for unemployment benefits the gross amount is counted as unearned income. BEM 503. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. Amounts received every two weeks are multiplied by 2.15. BEM 505.

The Eligibility Specialist testified that in processing the September 2013 redetermination of the Claimant's FAP case, the Department discovered that the \$260 biweekly unemployment compensation benefit the Claimant began receiving in June 2013 had not been included in her FAP budget. The Claimant testified she had reported this change in income when it occurred and provided documentation to the prior worker. Regardless of why the unemployment had not been included previously, the Department properly re-calculated the Claimant's FAP budget to correct this omission. Including the previously omitted unemployment compensation benefit resulted in a proposed decrease to the Claimant's monthly FAP allotment.

A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554

The Eligibility Specialist also testified that the Claimant reported a shelter expense on September 30, 2013, and the Department received verification of the Claimant's rent on October 4, 2013. Before the proposed decrease went into effect, the Department recalculated the Claimant's FAP budget again to include the verified monthly rent as a shelter expense. Accordingly, on October 7, 2013, the Department issued a Notice of Case Action to the Claimant stating her monthly FAP allotment would increase to \$ [REDACTED] per month effective November 1, 2013. (Exhibit 10)

The Claimant asserted that another worker indicated that when the shelter cost verification was received the Claimant's FAP case could be reviewed back three months because the Claimant had been paying rent.

BAM 220 addresses the effective dates of reported changes, and includes specific examples of newly reported shelter expenses for FAP cases. 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 policy further specifies that benefit month cannot be earlier than the month of the change. BAM 220. There is no policy to support a retroactive three month review of a FAP budget based on a newly reported shelter expense.

Certain verified medical expenses are also allowed to be included in the FAP budget. Regarding medical transportation expenses, actual costs of transportation and lodging necessary to secure medical treatment or services are allowed. If actual costs cannot be determined for transportation, the Department is to allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. Acceptable verification sources include, but are not limited to: DHS-54A, Medical Needs, completed by a licensed health professional; and collateral contact with the provider, which is most commonly used to determine costs for over-the-counter medication and health-related supplies as well as ongoing medical transportation. BEM 554

The Claimant also asserted that medical expenses should be included in her FAP budget. These expenses include medical supplies and transportation. The Claimant obtained a DHS-54A Medical Need verification form from her daughter's doctor, but is still in the process of obtaining verification of the need for medical transportation for herself as well as from specialists treating her daughter. The Claimant testified she also offered to obtain a statement from her Grandmother, the medical transportation provider. The Claimant stated a Department worker told the Claimant she could not accept anything from the Claimant's grandmother.

The Eligibility Specialist acknowledged that the Claimant has been reporting medical expenses, but testified that copies of the receipts would be needed to include these expenses in the FAP budget. For example, the Eligibility Specialist stated the gas

receipts would be needed from putting gas in the Claimant's Grandmother's car for the medical transportation expense.

The Department erred in stating information from the medical transportation provider could not be accepted and requiring receipts for all medical expenses to include them in the FAP budget. BEM 554, as cited above, specifically states collateral contacts with providers are an acceptable verification source and are the most common for determining costs of over-the-counter medication and health-related supplies as well as for ongoing medical transportation. Further, a mileage calculation is also allowable if actual costs cannot be determined for medical transportation.

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 did not act in accordance with Department policy when it calculated the Claimant's FAP monthly allotment.

### **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. Re-calculate the Claimant's FAP budget retroactive to November 1, 2013, in accordance with Department policy.
2. Issue the Claimant any supplement that she may thereafter be due.



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

Date Signed: November 20, 2013

Date Mailed: November 20, 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:

