

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-7108
Issue No(s): 2000, 3003
Case No.: [REDACTED]
Hearing Date: November 13, 2013
County: Jackson

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 Sha nda Couvillion, the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager, 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 with a group size of 2, the Claimant and her child.
2. The Department received information that SSI ended for the Claimant's child.
3. On September 18, 2013, the Department issued a Notice of Case Action to the Claimant stating, in part, the monthly FAP allotment would increase to \$ [REDACTED] on October 1, 2013. (Exhibit A, pages 18-20)
4. On September 19, 2013, the Claimant called the Department and reported her child's SSI was reinstated because the form they were waiting for was received. (Exhibit 1, page 17)

5. On September 30, 2013, the Department verified the ongoing SSI income based on a SOLQ report. (Exhibit A, pages 14-16)
6. On October 1, 2013, the Department issued a Notice of Case Action to the Claimant stating the monthly FAP allotment would decrease to \$ [REDACTED] on November 1, 2013. (Exhibit A, pages 3-5)
7. The Department did not include any housing costs in the Claimant's FAP budgets. (Exhibit A, pages 3-5 and 18-20)
8. On October 16, 2013, the Claimant filed a request for hearing protesting the Department's action on her FAP case.¹

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. Child support is considered income to the child for whom the support is paid. BEM 500 A shelter expense is also allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554

In this case, the Department has appropriately responded to updated SSI income changes by re-calculating the Claimant's FAP budget as the new information was received. However, the Claimant still contests the accuracy of the income figures used and the lack of any shelter expense in the FAP budget.

The Eligibility Specialist testified that for the FAP budget recalculated on October 1, 2013, he utilized the SSI amount from the September 30, 2013, SOLQ report, resulting in the monthly FAP allotment of \$ [REDACTED] starting November 1, 2013. (Exhibit A, pages 3-5)

¹ The Claimant also marked that she was contesting action taken on her Medicaid case. The Department had determined that the Claimant's group 2 caretaker Medicaid case would close related to the SSI ending for the her child. However, the Claimant's Medicaid was reinstated based on the updated information showing the SSI was ongoing. The Claimant testified that this resolved the Medicaid issue. Accordingly, the Claimant's appeal related to Medicaid is dismissed as there is no longer any contested issue related to the Claimant's Medicaid case.

The SOLQ report shows a recurring monthly SSI gross payment of \$ [REDACTED] starting October 1, 2013. (Exhibit A, page 15) It was uncontested that the monthly child support payment is \$ [REDACTED]. Adding the monthly gross SSI payment of \$ [REDACTED] to child support payment of \$ [REDACTED] equals \$ [REDACTED]. However, the unearned income included in the FAP budget was \$ [REDACTED] (Exhibit A, pages 3-10). It is unclear why there is a \$ [REDACTED] difference for the unearned income.

The Claimant brought additional documentation to the Department from the Social Security Administration supporting her testimony that the SSI payment is only \$ [REDACTED]. As read by the Family Independence Manager, this letter indicated the monthly payment of \$ [REDACTED] was for the period of July 2013 through November 2013. However, the Family Independence Manager credibly testified that this letter was dated October 28, 2013. Accordingly, this information could not have been utilized by the Eligibility Specialist in this budget because it was not available when the FAP budget was re-calculated on October 1, 2013.

No housing expenses were included in the FAP budget. (Exhibit A, pages 3-10) The Eligibility Specialist asserted the Claimant never reported a shelter expense. The Claimant testified that the Eligibility Specialist was aware that she moved into an apartment and had a monthly rent payment based on State Emergency Relief (SER) applications she filed for assistance with the deposit and first month's rent. The Claimant stated that her monthly rent obligation was included in the documentation submitted for the SER applications. The Claimant stated the first SER application was approved, but the authorization ran out because the landlord went out of town. The Eligibility Specialist testified that by the time of the second SER application, a transitional housing agency was involved and had documented that the Claimant would not have an out of pocket cost. That was the basis for the denial of the second SER application. Further, the Eligibility Specialist understood that the transitional housing agency typically based any rent obligation on a percentage of gross income, but he did not have those figures. The Eligibility Specialist explained that he could not include a housing cost in the Claimant's FAP budget because he was not aware of what amount, if any, the Claimant paid for rent. The Eligibility Specialist stated the SER applications were around September 2013. The Claimant testified she pays \$ [REDACTED] per month in rent and the agency pays the rest.

The evidence submitted by the only documents \$ [REDACTED] of unearned income based on the information available to the Eligibility Specialist on October 1, 2013, rather than the \$ [REDACTED] included in the claimant's FAP budget. Further, the updated SSI information that was not available to the Eligibility Specialist when this budget was calculated, now indicates a lower monthly SSI payment that started July 2013. It also appears there was confusion regarding whether the Claimant would have a monthly rent obligation once the transitional housing agency was involved. If still needed, the Department should request verification of the Claimant's housing expenses.

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 re-calculated the Claimant's FAP budget on October 1, 2013.

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.



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:

