

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

IN THE MATTER OF:

██████████
████████████████████
██████████

Reg. No.: 2014-7669
Issue No.: 3003
Case No.: ██████████
Hearing Date: November 20, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Assistant Payment Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment for 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 and her daughter are ongoing FAP recipients.
2. Claimant's FAP group size is two (Claimant and daughter) and both are senior/disabled/disabled veteran (SDV) members.
3. On September 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$77 effective October 1, 2013, ongoing. See Exhibit 1.

4. On October 5, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$57 effective November 1, 2013, ongoing. See Exhibit 1.
5. On October 16, 2013, Claimant filed a hearing request, protesting her FAP allotment.

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.

October 2013 FAP benefits

On September 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$77 effective October 1, 2013, ongoing. See Exhibit 1.

At the hearing, it was not disputed that Claimant's group size is two (Claimant and daughter) and both are senior/disabled/disabled veteran (SDV) members. The Department presented the October 2013 FAP budget for review. See Exhibit 1.

The Department counts the gross amount of current Social Security Administration (SSA) – issued Supplemental Security Income (SSI) as unearned income. BEM 503 (July 2013), pp. 31-32.

Both Claimant and her daughter received SSI and the Department calculated their total gross unearned income to be \$1,434. See Exhibit 1. However, Claimant disputed this amount. Claimant testified that she receives \$710 in SSI and her daughter receives \$625 in SSI, which results in a total of \$1,335.

A review of Claimant's SOLQ document indicated that she does receive \$710 in SSI monthly. See Exhibit 2. Also, a review of her daughter's SOLQ indicated that she received \$625 in SSI. See Exhibit 2.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's unearned income. Claimant provided credible testimony that a change in unearned income had occurred. Moreover, the Department did not satisfy its burden of

showing that it acted in accordance with Department policy because it was unable to provide evidence and/or testimony regarding how it calculated Claimant's gross unearned income. The Department did not have SOLQs at the time of hearing to rebut Claimant's testimony that her daughter's unearned income had decreased.

It should be noted that Claimant also acknowledged that both of them receive State SSI Payments (SSP), which are issued quarterly. BEM 503, p. 33. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department counts the corresponding monthly SSP benefit amount as unearned income. See BEM 503, p. 33. When the Department is recalculating the budget, it will also determine the appropriate SSI payment levels per RFT 248. See RFT 248 (January 2013), p. 1.

The Department also applied the appropriate \$151 standard deduction applicable to Claimant's group size of two. BEM 550 (July 2013) p. 1; RFT 255 (October 2013), p. 1.

Additionally, Claimant did indicate that she had medical deductions for both her and her daughter. Claimant testified that she told the Department about her medical expenses, but she stated that she probably did not send in the correct paperwork. Claimant testified that she and her daughter each have medical expenses of \$20-\$200 per month and they also have medical transportation costs.

For groups with one or more SDV member, the Department allows medical expenses for the SDV member(s) that exceed \$35. BEM 554 (July 2013), p. 1. The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11. Also, a FAP group is not required to, but may voluntarily report changes during the benefit period. BEM 554, p. 8. The Department processes changes during the benefit period only if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and you have sufficient information and verification to determine the allowable amount without contacting the FAP group.

BEM 554, p. 8.

A review of Claimant's FAP budget indicates that her next review date is August 31, 2014, and she is currently in her benefit period. See Exhibit 1. Claimant also testified that she has not provided any verification for herself or her daughter to the Department due to her medical conditions. Based on this information, the Department properly did not apply a medical deduction. Claimant can report and verify such medical expenses. However, Claimant failed to provide credible testimony and/or evidence of those specific medical expenses. Moreover, Claimant failed to state when she notified the

Department of her medical expenses and/or did not provide any verifications to the Department.

Finally, the Department also determines Claimant's excess shelter deducton. As previously stated, Claimant and her daughter are SDV members. For groups with one or more SDV member, the Department uses excess shelter and Claimant is not subject to the standard shelter maximum for non-SDV members of \$478. RFT 255, p. 1.

The shelter budget indicated that Claimant's monthly housing expense is \$407. However, Claimant disputed this amount and stated her monthly housing expense is \$485. The Department, though, testified that Claimant submitted a change report on October 2, 2013, in which she indicated her rent is now \$485. Claimant agreed with the change report.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2013), p. 9. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 9. These include, but are not limited to, changes in: address and shelter cost changes that result from the move. BAM 105, p. 9. The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2013), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported; provided any necessary verification was returned by the due date. BAM 220, p. 6.

The Department testified that it sent Claimant a Verification Checklist dated October 22, 2013, which requested verification of the shelter costs and was due back by November 1, 2013. Based on this information, the Department properly calculated Claimant's housing costs for October 2013 because Claimant's shelter change at a minimum will affect her November 2013 benefits. See BAM 220, p. 6.

The Department also gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 12-13. The utility standard of \$553 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount.

November 2013 FAP benefits

On October 5, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$57 effective November 1, 2013, ongoing. See Exhibit 1.

A review of the November 2013 FAP budget indicated that the Department calculated the same amount for unearned income. Thus, as the previously stated above, the Department will recalculate the unearned income for November 2013 as well.

Additionally, based on when or if the Department receives the shelter verification, the Department will determine if it applies to her November 2013 FAP budget in accordance with Department policy. See BAM 220, pp. 6-8.

It should also be noted that effective November 1, 2013, ongoing, the FAP allotment decreased due to a mass change in law and policy which related to a federal adjustment to eligibility standards, allotments and deductions, and/or State adjustments to utility standards. 7 CFR 273.12(e)(1).

In summary, the Department did not act in accordance with Department policy when it improperly calculated Claimant's FAP allotment effective October 1, 2013, ongoing.

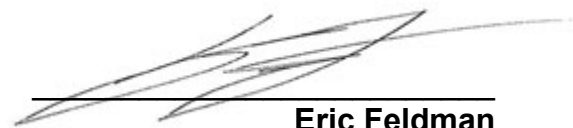
DECISION AND ORDER

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 improperly calculated Claimant's FAP allotment effective October 1, 2013, ongoing.

Accordingly, the FAP 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. Begin recalculating the FAP budget for October 1, 2013, ongoing, in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 26, 2013

Date Mailed: November 26, 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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]