

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-8992
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: November 19, 2013
County: Wayne-43

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, a telephone hearing was held on November 19, 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.

ISSUE

Did the Department properly determine the amount of 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 September 18, 2013, the Claimant submitted a Semi-Annual Contact Report to the Department, in part, reporting she stopped working and began receiving Social Security Disability of \$ [REDACTED] per month. (Exhibit A, pages 2a-2b)
3. The Department re-calculated the Claimant's FAP budget and determined the monthly allotment would decrease to \$ [REDACTED]
4. On October 14, 2013, the Department issued a Notice of Case Action to the Claimant. (Request for Hearing)
5. On October 24, 2013, the Claimant filed a request for hearing protesting the Department's action. (Request for Hearing)

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 income from employment, the gross wages are counted as earned income. BEM 501. For SSA-issued RSDI, the gross amount of current benefit is counted as unearned income. BEM 503.

The Eligibility Specialist testified that the Claimant had been receiving a monthly FAP allotment of \$ [REDACTED] when she was earning \$ [REDACTED] per month working at [REDACTED]. On September 18, 2013, the Claimant submitted a Semi-Annual Contact Report to the Department, in part, reporting she stopped working and began receiving Social Security Disability of \$ [REDACTED] per month. (Exhibit A, pages 2a-2b) Accordingly, the Department re-calculated the Claimant's FAP budget and determined the monthly allotment would decrease to \$ [REDACTED]. The Eligibility Specialist explained that the decrease in the Claimant's monthly FAP allotment was due to the increase in her income. On October 14, 2013, the Department issued a Notice of Case Action to the Claimant. (Request for Hearing)

The Claimant testified that money is being taken out of her Social Security Disability benefit due to an overpayment. The Claimant is having to choose to purchase medication or food. However, the Claimant testified she just got the statement last week that \$ [REDACTED] will be taken out for the overpayment.

BEM 500 policy addresses reduced benefits due to overpayment. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. These amounts are excluded as income. BEM 500. However, the Claimant's testimony indicated she only received the statement last week that \$ [REDACTED] will be taken out of the Social Security Disability benefit for the overpayment. Accordingly, this information was not available when the Claimant's FAP budget was recalculated and the October 14, 2013, Notice of Case Action was issued.

On the Semi-Annual Contact Report, the Claimant reported her Social Security Disability benefit was \$ [REDACTED] and did not indicate there would be any portion withheld for an overpayment. (Exhibit A, page 2b) The Eligibility Specialist testified she had no information indicating any portion of the Social Security Disability benefit would be withheld when the Claimant's FAP budget was recalculated. The Department submitted an October 25, 2013, SOLQ report verifying the Claimant's Social Security monthly gross benefit of \$ [REDACTED] with an unearned income start date of August 1, 2013.

(Exhibit A, page 4) Based on the information available at the time the October 14, 2013, Notice of Case Action was issued, the Department properly determined the amount of the Claimant's FAP monthly allotment would decrease due to the change in her income.

The Department should consider the reduced Social Security Disability benefit due to the overpayment in determining the Claimant's ongoing FAP monthly allotment based on the new documentation the Claimant provided to the Eligibility Specialist during the telephone hearing proceedings.

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 determined the amount of the Claimant's FAP monthly allotment would decrease due to the change in her income based on the information available at the time the October 14, 2013, Notice of Case Action was issued.

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 22, 2013

Date Mailed: November 22, 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:

