

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-12495
Issue No(s): 3008
Case No.: ██████████
Hearing Date: December 12, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 December 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (FAP) benefits?

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 was an ongoing recipient of FAP benefits.
2. On October 31, 2013, the Department sent Claimant a Notice of Case Action informing him that effective November 1, 2013, he was approved for FAP benefits in the amount of ██████████
3. On November 6, 2013, Claimant submitted a hearing request, disputing the amount of his FAP benefits.

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.

In this case, Claimant submitted a hearing request on November 6, 2013, in connection with a Notice of Case Action dated October 31, 2013. Specifically, Claimant indicated on his hearing request that his income amounts have changed due to child support payments. At the hearing, the Department presented a Verification Checklist dated October 31, 2013, with a due date of November 12, 2013. The Department testified that effective December 1, 2013, Claimant's FAP case was closed based on a failure to submit the requested verifications. Because the case closure based on a failure to submit verifications did not occur until after Claimant's hearing request was received, the FAP case closure effective December 1, 2013, was not addressed at the hearing. Claimant was informed that he was entitled to reapply for FAP benefits or request a hearing, should he dispute the FAP case closure. The hearing continued with respect to the amount of Claimant's FAP benefits for November 1, 2013.

At the hearing, the Budget Summary from the October 31, 2013, Notice of Case Action was reviewed. The Department concluded that Claimant had earned income of [REDACTED]. The Department was unable to explain which figures were relied on in making that determination, however. There were no paystubs or income verification presented and the Department could not identify the income amounts used.

Additionally, Claimant testified that he pays child support of about [REDACTED] per week. The Department presented a Child Support search which confirms that Claimant does make child support payments monthly. After further review of the Budget Summary, the Department has failed to take into consideration the amount that Claimant pays in monthly child support, as required by BEM 554 (July 2013), pp.6-7.

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 because of the Department's inability to explain how Claimant's earned income was calculated and the Department's failure to consider Claimant's child support payments as expenses, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits for November 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. Recalculate Claimant's FAP budget for November 1, 2013; and
2. Issue supplements to Claimant for any FAP benefits that he was entitled to receive but did not from November 1, 2013, ongoing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2013

Date Mailed: December 16, 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.

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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

ZB/tm

cc:

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