

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-7216
Issue No.: 3003
Case No.: ██████████
Hearing Date: November 25, 2013
County: Wayne (31)

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 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Assistant Payment Worker, and ██████████, Assistant Payment Supervisor.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective 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 is an ongoing recipient of FAP benefits.
2. On October 16, 2013, Claimant filed a hearing request, protesting her October and November 2013 FAP allotment. See Exhibit 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.

In this case, Claimant was an ongoing recipient of FAP benefits. The Department presented Claimant's FAP budgets for October and November 2013. See Exhibit 1. During the hearing, though, the Department testified that it erred in calculation of her benefits because it included her unemployment income that had ended in August 2013. The Department counts the gross amount of unemployment benefits as unearned income. See BEM 503 (July 2013), pp. 34-35.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's FAP benefits effective October 1, 2013, ongoing. The Department agreed that it erred in including her unemployment benefits as unearned income when in fact those benefits ended in August 2013. The Department will recalculate her FAP benefits from October 1, 2013, ongoing.

It should be noted that two of Claimant's FAP group members received Supplemental Security Income (SSI) and State SSI Payments (SSP), which are counted as unearned income. See BEM 503, pp. 31-33. The Department also indicated that Claimant received child support income in the amount of \$134. The Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 3. Claimant did not dispute the calculation of her child support payments.

Additionally, Claimant also received earned income for September and October 2013. A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 7. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

Claimant last received a paycheck in October 2013 and that her employment had also ended in October 2013. Because the Department is recalculating her FAP budget due to the error in unemployment benefits, the Department will also determine if Claimant's earned income is budgetable in accordance with Department policy. BEM 505, pp. 1 and 7-8.

Finally, the Department testified that Claimant's monthly housing expenses were \$177.84, which Claimant disputed. Claimant testified that her monthly housing expenses should have been \$283. The Department testified that it received verification of the shelter changes on October 16, 2013, which Claimant did not dispute. The Department testified that the shelter change reflected her November 2013 benefits. It should be noted that a review of her FAP shelter budget for October and November 2013 indicated a shelter budget of \$283. See Exhibit 1. This is contradictory to what the Department stated, that the shelter reflects \$283 effective November 2013, ongoing. It appears the Department applied the \$283 for October 2013 as well.

Other changes must be reported within 10 days after the client is aware of them. BAM 105 (October 2013), 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, pp. 6-7.

Based on the foregoing information and evidence, the Department appears to reflect the shelter change effective October 1, 2013, ongoing. Nevertheless, the Department is recalculating the budget due to the unearned/earned income issue and thus, will also determine the appropriate shelter costs in accordance with Department policy.

DECISION AND ORDER

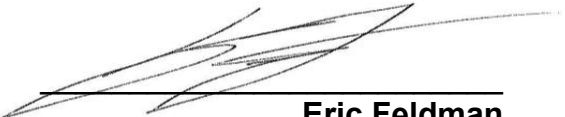
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it improperly calculated Claimant's FAP allotment for October 1, 2013, ongoing.

Accordingly, the Department's FAP 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, including verification of Claimant's unearned/earned income and shelter costs 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: December 3, 2013

Date Mailed: December 3, 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]