

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

IN THE MATTER OF:



Reg. No.: 2014-7262
Issue No(s): 3001, 3008
Case No.: [REDACTED]
Hearing Date: November 26, 2013
County: St. Clair County DHS

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 26, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] II, the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] General Services Program Manager, and [REDACTED] [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 was an ongoing recipient of FAP benefits.
2. On September 14, 2013, a Notice of Case Action was sent to the Claimant stating the FAP allotment would be reduced to \$ [REDACTED] effective October 1, 2013, because the Claimant would be removed from the FAP based on a determination that he was an ineligible student.
3. The Claimant subsequently reported he had started working with a hire date of September 3, 2013.
4. The Department determined that that Claimant became an eligible student, added the Claimant back into the FAP group and re-calculated the FAP budget to include the Claimant's earned income.

5. On October 5, 2013, a Notice of Case Action was issued to the Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] per month effective November 1, 2013. (Exhibit A, pages 2-3)
6. On October 23, 2013, the Claimant filed a request for hearing protesting the Department's action stating the earned income amount is incorrect and the decreased amount seems to be incorrect also.

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, Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550. For income from employment, the gross wages are counted as earned income. BEM 501. The gross amount of VA pension or compensation is counted as unearned income. BEM 503. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554.

A person is in student status if he is age 18-49 and enrolled half time or more in: a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. The criteria for a person in student status to be eligible for FAP includes but is not limited to: receiving Family Independence Program (FIP) benefits; being physically or mentally unfit for employment; working at least 20 hours per week; participating in an on-the-job training program; participating in a state or federally-funded work study program; or in specified circumstances providing care for a minor. BEM 245.

The Eligibility Specialist testified that a Notice of Case Action was sent to the Claimant September 14, 2013, stating the Claimant would be removed from the FAP effective October 1, 2013, based on a determination that he was an ineligible student. The Claimant acknowledged that at that time he was a student. The Claimant testified that he began working with a hire date of September 3, 2013. However, the Claimant

testified he reported the employment to the Department when he received the September 14, 2013, Notice of Case Action. Therefore, at the time the September 14, 2013 Notice of Case Action was issued, the Department had not been notified that the Claimant started working. There was no evidence that the Claimant met any of the other BEM 245 criteria to be considered an eligible student at that time. Accordingly, the September 14, 2013, determination to remove the Claimant from the FAP group effective October 1, 2013, was appropriate based on the information available to the Department at that time.

BAM 505 directs the Department to complete a budget when the Department is made aware of or the client reports a change in income that will affect eligibility or benefit level.

Upon receiving the updated information of the Claimant's employment, the Department determined that that Claimant became an eligible student, added him back into the FAP group and re-calculated the FAP budget to include the Claimant's earned income. The Department properly considered the Claimant's earned income, VA income, and housing costs along with the standard deduction and the heat/utility standard in effect at that time. The Claimant testified he assumed the earned income figures on the verification the Department obtained through The Work Number were correct. (Exhibit A, page 6) Accordingly, the evidence supports the Department's calculation for the FAP monthly allotment that went into effect November 1, 2013.

Pursuant to BAM 105, if there are further changes in the Claimant's work hours and/or income the Claimant must timely report these changes to the Department for determining ongoing eligibility and benefit amounts.

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 calculated the Claimant's FAP monthly allotment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

/s/
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 5, 2013

Date Mailed: December 5, 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/hj

cc:

