

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-35608  
Issue No.: 3002  
Case No.: [REDACTED]  
Hearing Date: April 15, 2013  
County: Oakland (03)

**ADMINISTRATIVE LAW JUDGE:** Zainab Baydoun

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted on Monday, April 15, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED] Assistance Payment Supervisor.

**ISSUE**

Did the Department properly reduce 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 January 15, 2013, the Department sent Claimant a Redetermination that was to be completed and returned on or before February 5, 2013. (Exhibit 1)
3. In connection with the Redetermination, Claimant's eligibility for FAP benefits was reviewed and her FAP budget was recalculated.
4. On February 26, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP benefits would be reduced effective March 1, 2013. (Exhibit 5)

5. On March 11, 2013, Claimant filed a hearing request disputing the Department's actions.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code Rule 400.3001 through Rule 400.3015.

Additionally, in this case, on January 15, 2013, the Department sent Claimant a Redetermination which Claimant completed and returned. (Exhibit 1). In connection with this Redetermination, Claimant's eligibility for FAP benefits was reviewed and her FAP budget was recalculated. On February 26, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP benefits would be reduced effective March 1, 2013. (Exhibit 5). Claimant requested a hearing to address the decrease in her FAP benefits from \$200.00 to \$16.00 effective March 1, 2013. Claimant lives with her husband who is enrolled as a full-time student at the University of Phoenix. Claimant's husband is in student status for FAP purposes. BEM 245 (January 2013), pp.2-3. A person who is in student status and does not meet the criteria in BEM 245 is a non-group member. BEM 212 (November 2012), p. 8. Based on the testimony provided at the hearing by both Claimant and the Department, Claimant's husband does not meet any of the criteria found in BEM 245, and he is not to be counted as a group member for FAP purposes. BEM 245, pp.3-4. Therefore, the Department properly determined that Claimant's group size was one.

At the hearing, the budget from the FAP EDG Net Income Results was reviewed. (Exhibit 1). The Department concluded that Claimant had unearned income of \$1,000.00. Claimant verified that she receives this amount from a family friend each month. For FAP purposes, a donation to an individual by family or friends is considered to be part of the individual's unearned income. BEM 503 (November 2012), p.8. Therefore, the Department properly concluded that Claimant had unearned income of \$1,000.00.

The Department properly applied the \$148.00 standard deduction applicable to Claimant's group size of one. RFT 255 (October 2012), p 1. According to the excess shelter deduction presented, the Department applied the \$575.00 standard heat and utility deduction available to all FAP recipients. (Exhibit 2) BEM 554 (October 2012), pp. 11-12. The Department testified that at the time of the redetermination, it did not have any verification of housing costs from Claimant, so no housing expense was applied to

her March 2013 FAP budget. Claimant provided the Department with a copy of her lease on March 11, 2013, verifying that she pays \$700.00 in monthly rent. (Exhibit 3). The Department stated that the rent was applied as a housing expense in Claimant's April 2013 FAP budget. Verification of shelter expenses is required at application and for when a change is reported. BEM 554 (October 2012), p. 11. To request verification of information, the Department sends a Verification Checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3. A review of the Redetermination submitted by Claimant shows that Claimant indicated that she has housing expenses of \$700.00 in rent. (Exhibit 1). This should have been considered a reported change by the Department and verification should have been requested. BEM 554, p.11; BAM 130, pp. 2-3. The Department did not act in accordance with Department policy when it failed to send Claimant a VCL requesting proof of her rent; and therefore, improperly calculated the housing expense for Claimant's March 2013 FAP budget.

Additionally, Claimant's hearing request was timely received by the Department. BAM 600 (February 2013) p. 18. Claimant requested that she continue to receive her FAP benefits at the former level pending the results of her hearing. A review of the eligibility summary shows that the Department did not continue to provide Claimant with her FAP benefits pending the outcome of the hearing, as required under BAM 600, which was improper. BAM 600, p. 18; (Exhibit 4).

As such, the Department did not act in accordance with Department policy when it calculated Claimant's FAP budget effective March 1, 2013 and failed to provide Claimant with FAP benefits at the former level pending the results of her timely filed hearing. BEM 556 (October 2011); RFT 260 (December 2012), p 7; BAM 600, p. 18.


### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it reduced Claimant's FAP benefits. Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's FAP budget including rent as a housing expense for March 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Begin issuing supplements to Claimant for any FAP benefits that she was entitled to receive but did not from March 1, 2013, ongoing; and

3. Notify Claimant of its decision in writing in accordance with Department policy.

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

Date Signed: April 24, 2013

Date Mailed: April 24, 2013

**NOTICE:** 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant:
  - failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

ZB/cl

cc:

