

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-50809
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: June 27, 2013
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 held on June 27, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly decrease Claimant's monthly Food Assistance Program (FAP) benefits to \$438 effective February 2013 and to \$311 effective July 2013?

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. Effective February 2013, the Department decreased Claimant's monthly FAP benefits from \$526 to \$438.
3. On May 24, 2013, the Department sent Claimant a Notice of Case Action notifying her that her monthly FAP benefits were decreasing to \$311 effective July 1, 2013.
4. On May 29, 2013, Claimant filed a request for hearing disputing the Department's actions.

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), and Department of Human Services 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, R 400.3001 through R 400.3015.

Claimant received monthly FAP benefits of \$526 until February 2013 when the monthly benefits were decreased to \$438. On May 24, 2013, the Department notified Claimant of a decrease of her monthly FAP benefits to \$311 effective July 1, 2013. Claimant requested a hearing, alleging that there was no change in her monthly income or shelter expenses justifying the changes.

The Department provided FAP budgets showing the calculation of Claimant's FAP benefits for February 2013 (upon which Claimant's February 2013 through June 2013 FAP benefits were based) and for July 2013 ongoing, which were reviewed at the hearing. Both budgets relied on \$173.52 in monthly housing expenses, the \$575 heat and utility standard deduction available to all FAP recipients, a group size of three (consisting of Claimant and her two children), and a \$148 standard deduction applicable to a group size of three. RFT 255 (October 2012), p. 1. Although Claimant contended that she paid more for monthly housing expenses than \$173.52, the Department credibly testified that Claimant's monthly housing expenses were based on annual property taxes of \$2,082.77 that Claimant had verified in July 2012 and that Claimant had not reported and verified any other property tax payments, mortgage or homeowner's insurance policy premiums. See BEM 554 (October 2012), pp. 10-11. Based on the verified, reported property taxes, the Department properly calculated Claimant's monthly housing expenses of \$173.52.

The only difference between the two budgets was the amount of unearned income (which affected the calculation of the adjusted gross income and the excess shelter deduction). The February 2013 FAP budget showed unearned income of \$843, which Claimant confirmed was the total amount she received in monthly child support for her two children. A review of Claimant's February 2013 FAP budget based on the foregoing information shows that the Department acted in accordance with Department policy when it calculated her monthly net income of \$293 and the resulting monthly FAP benefits of \$438 based on this net income. See BEM 556 (July 2011); RFT 260 (December 2012), p. 3.

Claimant's July 2013 FAP budget showed monthly unearned income of \$1,125, which was based on a purported increase in the amount of child support Claimant received.

However, Claimant testified that her sole income was the \$843 she received in child support for her two children, which had not changed and was not expected to change. The Department also questioned the increase in child support showing on its system and confirmed that the consolidated inquiry showed that Claimant's sole income from child support was \$843 (\$421.96 for one child and \$421.94 for the other) and continued to be \$843 through June 2013. There was no evidence presented at the hearing that Claimant had any increase in income justifying the recalculated FAP budget. Thus, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it decreased Claimant's FAP benefits effective July 1, 2013.

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 satisfy its burden of showing that it acted in accordance with Department policy when it reduced Claimant's FAP benefits effective July 1, 2013, ongoing.

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 for July 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2013, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 2, 2013

Date Mailed: July 3, 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 effect the substantial rights of the claimant:
 - the 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

ACE/pf

cc:

