

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-57619
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 13, 2013
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 August 13, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) allotment beginning July 8, 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. As of July 8, 2013, the Claimant received FAP benefits.
2. Prior to July 8, 2013, the Claimant submitted verification of an increase in her monthly rental expense.
3. As of July 8, 2013, the Department was not budgeting the Claimant's rental expense change when determining the Claimant's monthly FAP allotment.
4. On July 8, 2013, the Claimant requested a hearing to protest her monthly FAP allotment.

CONCLUSIONS OF LAW

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

The FAP [formerly known as the Food Stamp (F S) 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 1999 AC, R 400.3001 through Rule 400.3015.

During the hearing, the Claimant testified she had submitted verification to the Department prior to July 8, 2013 indicating a change in her monthly rental obligation. The Department witness could not verify whether or not the Department had received this verification. Because of this, I have no choice but to find that more likely than not, the Claimant did submit the verification and therefore the Department improperly determined the Claimant's monthly FAP allotment by failing to take into account the Claimant's new monthly rental obligation.

In addition to the FAP allotment, the Claimant had an issue with a prior finding of an over issuance that arose approximately 3 years ago of which the Claimant has been paying on for some time. I explained to the Claimant that my jurisdiction covers only the issues that arose within the 90 days immediately after the Department took the action.

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.] (BAM 600).

Because the issue arose more than 90 days from the date the Claimant requested the hearing, I lack the necessary authority and jurisdiction to address the recoupment issue.

Accordingly, I find evidence to reverse the Department in this matter.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, that the Department did not act properly.

Accordingly, the Department's FAP determination is **REVERSED**.

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

1. Initiate a redetermination as to the Claimant's eligibility for FAP benefits beginning July 8, 2013 and issue retroactive benefits if the Claimant is otherwise qualified and eligible.



Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 13, 2013

Date Mailed: August 14, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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

CAA/las

cc:

